

MAG Water Quality Management Plan Small Plant Review and Approval

City of Peoria
Scorpion Bay Wastewater Treatment Plant

DRAFT – August 2007

Prepared By:

CSA
engineering

4645 E Cotton Center Blvd
Suite 169, Building 2
Phoenix, AZ 85040

Prepared For:

Lake Pleasant Marina Partners
215 North Point Drive
Winthrop Harbor, IL 60096





City of Peoria

Utilities Department

8401 West Monroe Street, Peoria, Arizona 85345

Phone: 623-773-7286 Fax: 623-773-7291

July 3, 2007

Lindy Bauer
Maricopa Association of Governments
302 North First Avenue, Suite 300
Phoenix, AZ 85003

Re: Scorpion Bay Wastewater Treatment Plant (WWTP)
208 Small Plant Review and Approval

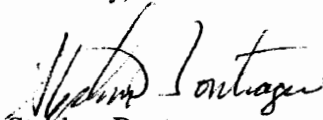
Dear Ms. Bauer:

The City of Peoria requests that Maricopa Association of Governments (MAG) initiate the 208 Small Plant Review and Approval Process for the proposed Scorpion Bay WWTP. The Scorpion Bay WWTP is proposed to be located at the Scorpion Bay Marina near Lake Pleasant in Arizona, within the City of Peoria's municipal planning area.

The draft Small Plant Review and Approval for the City of Peoria Scorpion Bay WWTP will be provided by the developer.

If you need additional information to review this request, please contact me at 623-773-7204.

Sincerely,


Stephen Bontrager
Utilities Director



Maricopa County

Environmental Services

Water and Waste Management Division

July 3, 2007

1001 N. Central Ave., Suite 150
Phoenix, AZ 85004
Phone: (602) 506-6666
Fax: (602) 506-6925
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www.maricopa.gov/envsvc

Maricopa Association of Governments
302 North 1st Avenue, Suite 300
Phoenix, AZ 85003

Attention: Ms. Lindy Bauer, Environmental Program Coordinator

Re: City of Peoria, Scorpion Bay Marina, Wastewater Treatment Plant
Clean Water Act, MAG 208 Small Plant Review

Dear Ms. Bauer:

In a transmittal dated July 1, 2007, CSA Engineering submitted the document *MAG 208 Water Quality Management Plan, Small Plant Review, City of Peoria, Scorpion Bay, Wastewater Treatment Plant, Draft* to Maricopa County Environmental Services Department (Department). The Facility will be located on the west shore of Lake Pleasant within Section 7 of Township 6N, Range 1E in the City of Peoria Municipal Planning Area. Phase 1 of the marina will have 312 boat slips, a restaurant, and support facilities. It will produce approximately 20,000 gallons of wastewater on an average day. Ultimately, the marina will have 800 boat slips and produce 35,000 gpd of wastewater. A package wastewater treatment plant will produce A+ reclaimed water that will be used for subsurface drip irrigation of on-site landscaping. The WWTP site will be graded so that all storm water is contained on site.

The document was submitted to the Department because it is located within three miles of unincorporated areas of Maricopa County that lie within the City of Peoria Municipal Planning Area and the right to use the land for the marina has been granted through an agreement with Maricopa County Parks and Recreation Department. The facility is also located within three miles of Yavapai County.

Based on a review of the proposed Small Plant Review, dated June 2007, the Department has determined that the proposed plant does not conflict with Maricopa County plans for the area.

Please note that the Department has not reviewed, nor approved, the design of the facilities as part of the small plant review. Any technical issues that remain will need to be resolved during the design phase of the project. Approval to Construct (ATC) and Approval of Construction (AOC) must be obtained from this Department prior to start of construction and startup, respectively, of all treatment, discharge, recharge, and reuse facilities, including all conveyance facilities and final end user facilities.

If you have any questions or comments, please feel free to contact Mr. Kenneth James, PE, or myself at 602-506-6666.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Chadwick".

Kevin Chadwick, P.E.
Division Manager

cc: Dale Bodiya, P.E., Manager, MCESD Treatment Plant Program
Ken Mouw, Maricopa County Parks and Recreation Department
Peter Chan, CSA, CSA Engineering, Inc.
File

JUN 18 2007



Yavapai County Development Services Department

500 S. Marina Street; Prescott, AZ. 86303
Phone: (928) 771-3214 Fax: (928) 771-3432

10 S. 6th Street; Cottonwood, AZ. 86326
Phone: (928) 639-8151 Fax: (928) 639-8153

Addressing – Building Safety – Customer Service & Permitting – Environmental – Flood Control – Land Use – Planning & Design Review

June 14, 2007

John Tyldesley
CSA Engineering
4645 E. Cotton Center Blvd
Building 2, Suite 169
Phoenix, AZ 85040

Re: Clean Water Act Small Plan Review and Approval for the Scorpion Bay WWTP

Dear Mr. Tyldesley:

Yavapai County has no objection to the Small Plant Review and Approval for the Scorpion Bay WWTP, located on the shore of Lake Pleasant, approximately 1.5 miles south of the Yavapai County border.

Please don't hesitate to contact me should you need anything further.

Sincerely,
YAVAPAI COUNTY DEVELOPMENT SERVICES

A handwritten signature in black ink, appearing to read "K. Spedding", written over a horizontal line.

Kenneth E. Spedding, Director
Floodplain Administrator
(928) 771-3216 FAX (928) 771-3368

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- References
 1. Pleasant Harbor Marina Data
 2. 'Marinas and Small Craft Harbors' – 2nd Edition
By Bruce O. Tobiasson, P.E. and Ronald C. Kollmeyer, Ph.D
 3. Sewage Flow Guidelines from Bulletin 11 and Bulletin 12
AAC Title 18, Chapter 9

1.0 Project Overview

In accordance with Section 208 of the Clean Water Act, the Maricopa Association of Governments (MAG) is the Designated Regional Water Quality Management Planning Agency. This Small Plant Review and Approval is for the proposed Scorpion Bay Wastewater Treatment Plant which would be located at the Scorpion Bay Marina, in the Lake Pleasant Regional Park in Arizona, within the City of Peoria's municipal planning area. The City of Peoria is the Designated Management Agency for the Peoria Municipal Planning Area. This document is being submitted with the support of the City of Peoria, and through an agreement with Maricopa County, who manages the Lake Pleasant Regional Park. This project is for a facility that is 2.0 million gallons per day or less and will not discharge to a surface water of the United States; therefore, the proposed facility will be reviewed through the Small Plant Review and Approval process.

The Scorpion Bay Marina is located on the west shore of Lake Pleasant as illustrated on the Vicinity Map (Figure 1). It is approximately three miles north of State Route 74, and nine miles west of Interstate 17. The plant will be located within Section 7 of Township 6 North, Range 1 East; latitude 33°52'30" N and longitude 112°17'30" W (Figure 2). The site itself is located with the Lake Pleasant Regional Park, and the right to use the land for the Scorpion Bay Marina and WWTP has been granted through an agreement with the Maricopa County Parks and Recreation Department (see Appendix A).

The site itself consists of approximately 0.26 square miles. The existing ground within the proposed WWTP slopes generally towards the lake and consists of rocky outcroppings and undeveloped ground cover typically classified as desert brush. Vegetation includes various types of cacti, mesquite trees, creosote bush, Palo Verde trees, and scattered short grasses. The WWTP site will be graded according to the treatment plant hydraulic profile. No known fissures have been found on the property.

The wastewater flow into the Scorpion Bay WWTP will come from three main sources: sewage flows pumped from boats docked at the marina slips, boats in rack storage and from the marina facilities. Overall sewage flows can be estimated from the number of boats docked or in storage, with additional flows from marina facilities.

Table 1 Flow Summaries for Scorpion Bay Marina Phase 1

Location	Unit	Ultimate - Phase 2	Flow (gpd)	Initial – Phase 1	Flow (gpd)
Docks	Slip	800	25,600	312	9,984
Racks	Boat	200	2,000	200	2,000
Café/Bar	Seat	85	2,550	85	2,550
Public Restrooms	Toilet	18	3,600	18	3,600
Laundry Washing	Machine	3	1,200	3	1,200
		Total Flow (gpd):	34,950		19,334

Phase 1 of the Wastewater Treatment Facility will be initially designed for an average day of the maximum month flow, or Average Daily Flow (ADF) of 19,500 gallons per day (gpd), with a Maximum Daily Flow (MDF), or Peak Day Flow of

39,000 gpd and a peak hour pumping capacity of 40 gpm. This will serve the boats docked at the marina and facilities at the marina itself. At full build out, the marina will have an operating ADF of 35,000 gpd.

The initial phase in itself will consist of the following process units:

- Influent pump station to transfer sewage from individual boats to the WWTP.
- Aeration Chamber and Anoxic Zones
- Clarifier
- Tablet Type Chlorinator and De-Chlorination
- Aeration will be supplied using mechanical blowers
- Chemical Coagulation System
- External Filters
- Solids Vault and Haul System
- MCC and electrical system with Standby Generator
- On-site drip irrigation reuse system

Scorpion Bay Wastewater Treatment Plant will produce Class A+ effluent that will be disposed of using on-site irrigation reuse. Reclaimed water will be used to run a drip irrigation system for the marina's landscaping (located at 33°52'30" N, 112°17'30" W). Due to the small effluent flow rate, no other disposal method will be necessary.

This amendment request has been provided in accordance with the MAG 208 Water Quality Management Plan, Section 4.5.2 MAG Small Plant Process.

2.0 Authority

In accordance with Section 208 of the Clean Water Act, MAG is the Designated Regional Water Quality Management Planning Agency. This Small Plant Review and Approval will incorporate the proposed Scorpion Bay WWTP into the MAG 208 Water Quality Management Plan. The proposed facility is to be located within the municipal planning area for the City of Peoria.

3.0 Small Plant Guidelines

3.1 Plant Justification

Due to its location on the shore of Lake Pleasant, the Scorpion Bay WWTP is proposed to serve only the Scorpion Bay Marina, which it will service in perpetuity. There will be no residential development within the park grounds. The plant is sufficiently isolated from any other sewer service area for it to be impractical to pipe flows elsewhere for treatment. Pleasant Harbor Marina does operate its own WWTP three miles to the south east on the opposite shore of Lake Pleasant. However, that plant is neither sized nor located as to be useable by the Scorpion Bay Marina.

Due to low flows and small footprint, sludge treatment on site will be impractical. Instead, sewage will be temporarily stored on site in a sludge holding tank equipped with aeration. At a predetermined frequency, the sludge will need to be

hauled to Resource Recovery Techniques of Arizona's existing WWTF for additional treatment.

There are no known soil limitations for this project.

3.2 Master Plan Compatibility

The implementation of Scorpion Bay WWTP is not anticipated to have any negative impacts on the nearby communities. There are no existing or proposed sewer service areas or reuse plans in the vicinity to be impacted by the proposed plant.

3.3 Plant Benefits

It is expected that the WWTP will bring necessary sewer service to the Marina users. This plant is a cleaner, more efficient solution to providing service in the area, avoiding the costs and environmental issues involved with septic systems or long-term vault and haul operations. The primary benefit to the plant is to allow the development of the Scorpion Bay Marina which would be unable to function in a clean, efficient manner without wastewater service.

3.4 Potential Problems

Due to low flows and small footprint, sludge treatment on site will be impractical. Instead, sewage will be temporarily stored on site in a sludge holding tank equipped with aeration. At a predetermined frequency, the sludge will need to be hauled to Resource Recovery Techniques of Arizona's existing WWTF for additional treatment. This will increase the cost of maintaining the facility, however the costs associated with building and operating this Small Plant will still be the most economical option compared to other treatment methods available.

If full consumption of the reuse water is not realized, an AZPDES permit may have to be requested. However, this risk is being minimized by the use of high water consumption vegetation in the marina landscaping. Tight reuse and discharge controls should ensure no water quality issues with surface or groundwater. The technology used in the facility design will be sufficient to meet all state regulations for reuse quality.

The location of the facility at the high traffic Marina location should ensure timely operation and maintenance, sustaining the quality and effectiveness of the facility.

3.5 Financial

Financing for the initial 19,500 gpd ADF phase will be covered by Lake Pleasant Marina Partners, LLC. Lake Pleasant Marina Partners, LLC has access to sufficient funds to cover construction, operations, closure, and post closure costs, as described in Appendix B. The initial plant phase is projected to satisfy first phase capacity requirements for the Scorpion Bay Marina. Operation and maintenance costs, in addition to any future expansions, will be financed through Lake Pleasant Marina user fees.

3.6 Operation

As the owner of the Scorpion Bay WWTP, Lake Pleasant Marina Partners will administer the collection of fees from Marina users in order to finance the operations and expansion of the facility. The rate structure and rates will be submitted to the Arizona Corporation Commission for approval prior to implementation.

Preliminary estimates of annual operating revenues and expenses are presented in the following Table 5.1:

Table 5.1 – Annual Operating Revenues and Expenses			
Year	Customers	Revenues	Expenses
1	50	\$18,000	\$152,000
2	100	\$36,000	\$15,200
3	200	\$72,000	\$30,400
4	400	\$144,000	\$60,800
5	800	\$288,000	\$121,500

FIGURES

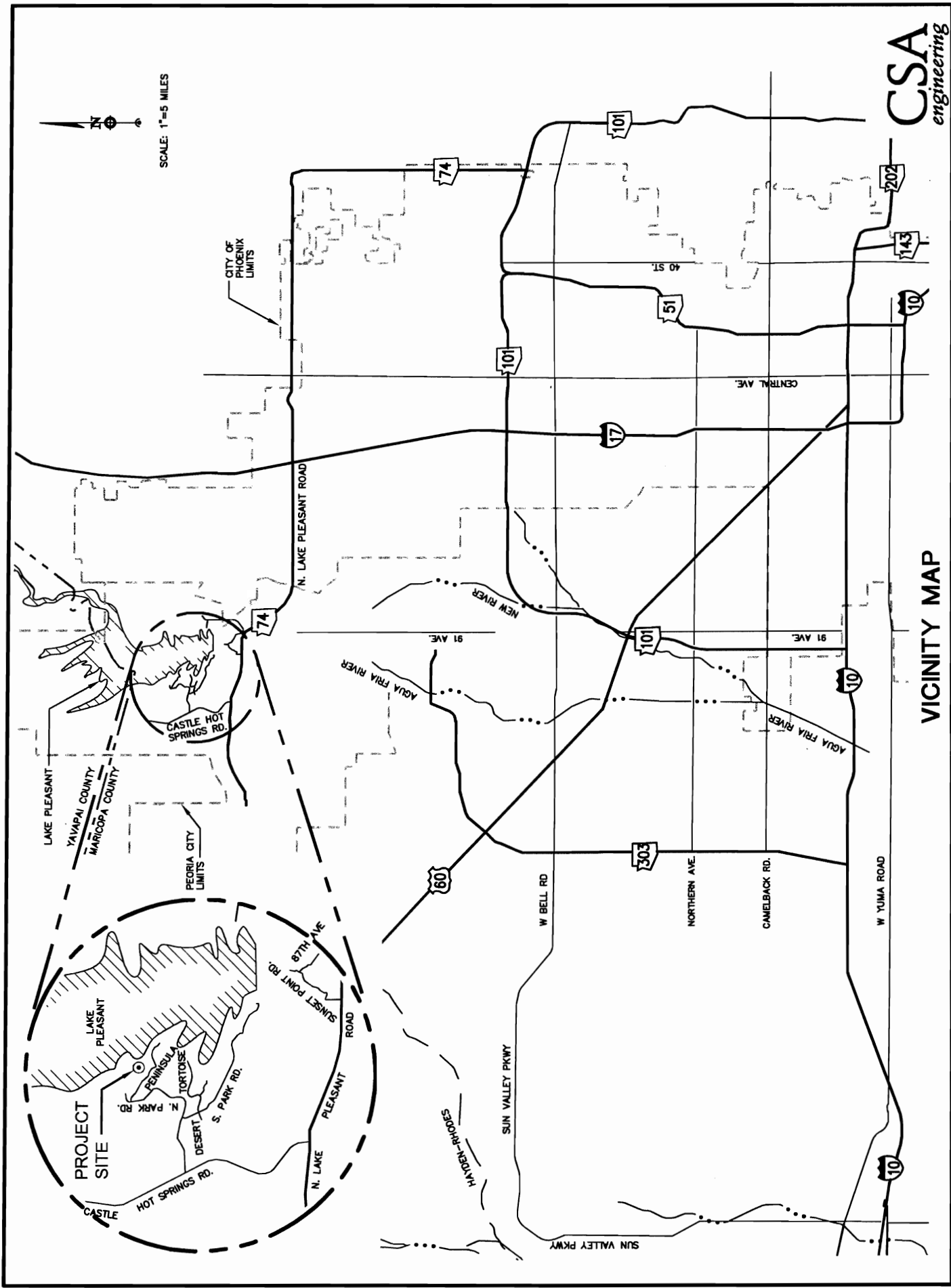


FIGURE 1



DMG No. 2

Scorpion Bay Marina Projected 20-Year Growth

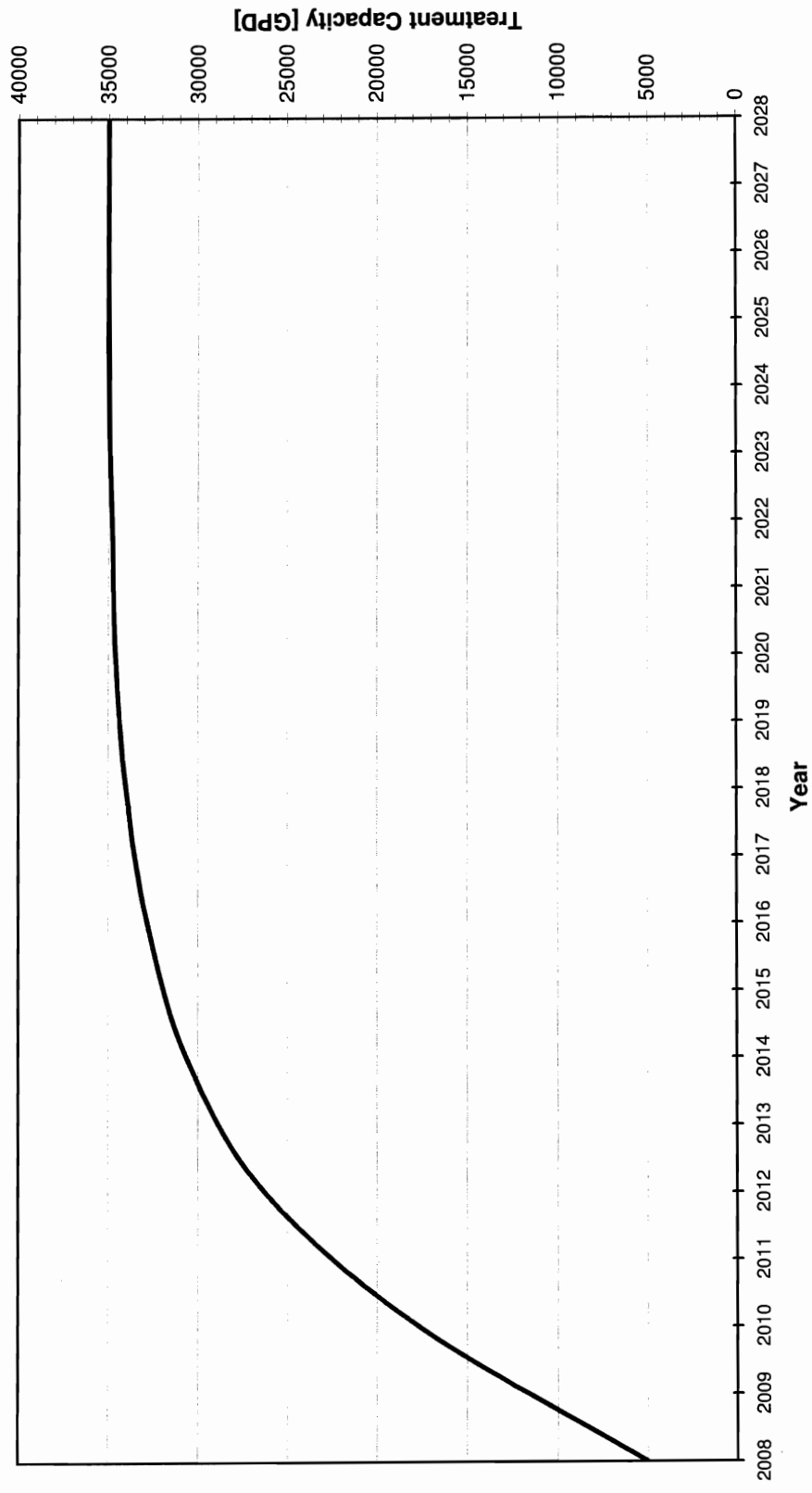
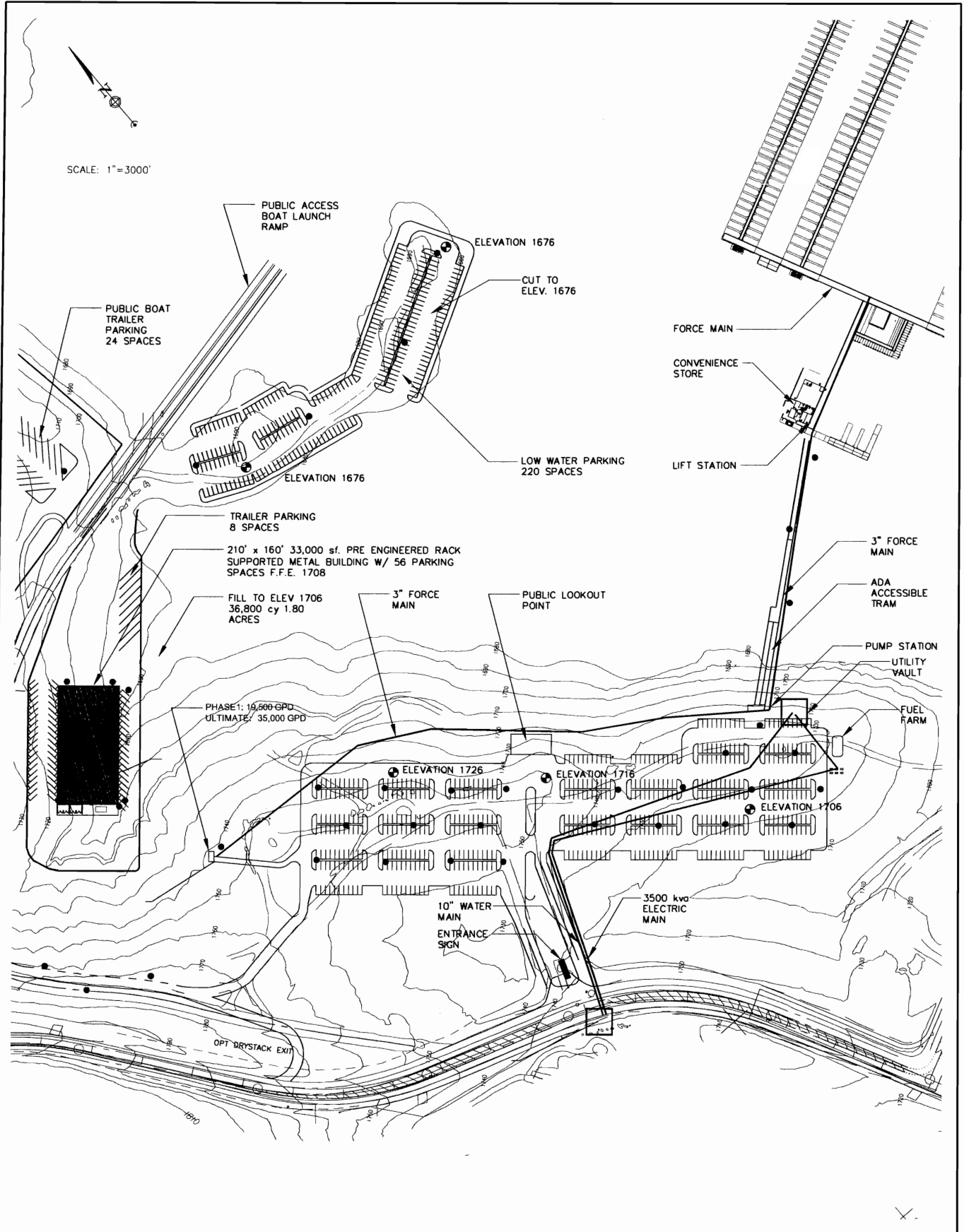


FIGURE 3

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CSA
engineering

**SCORPION BAY
APP PERMIT
SITE PLAN**

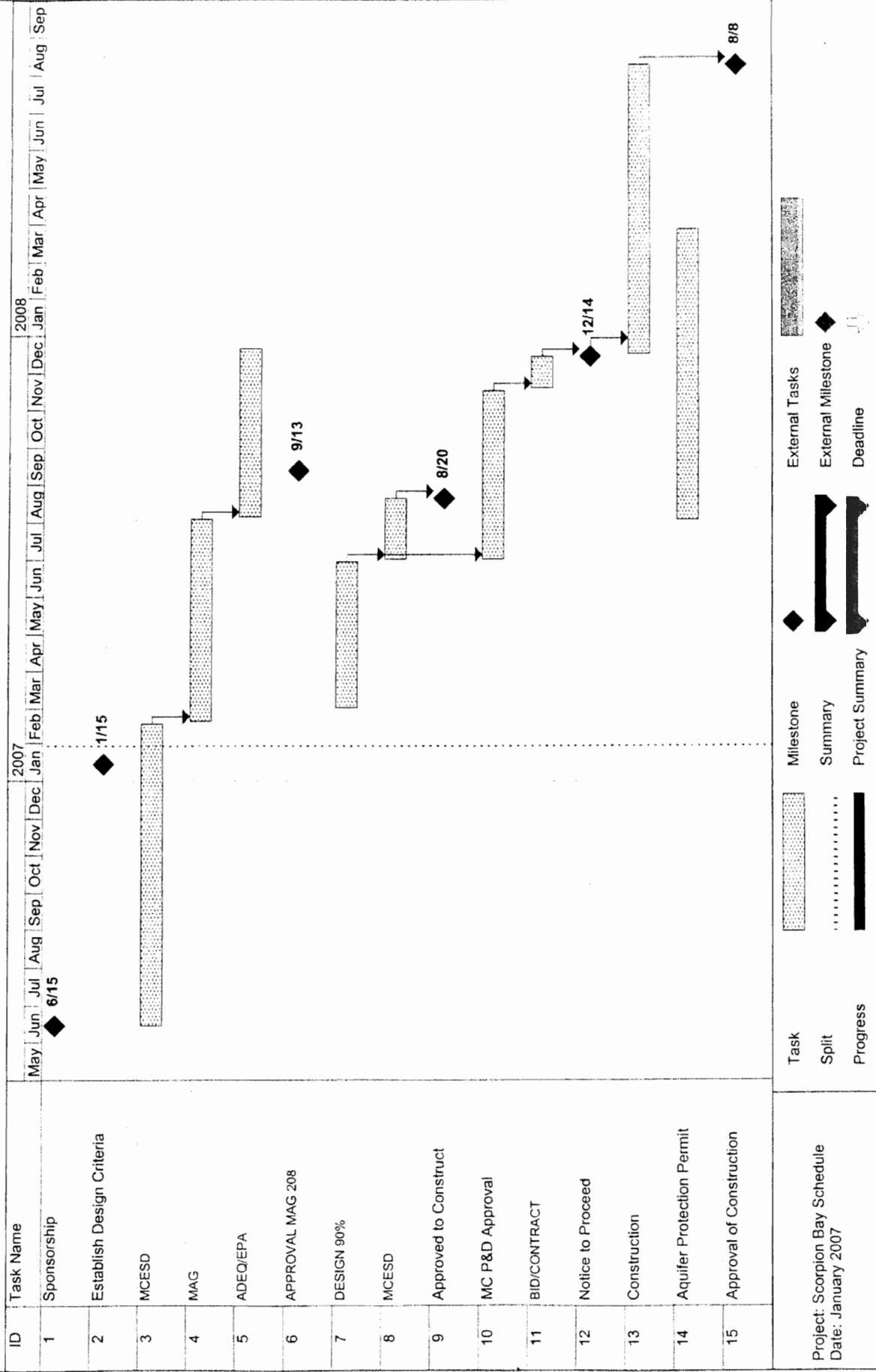
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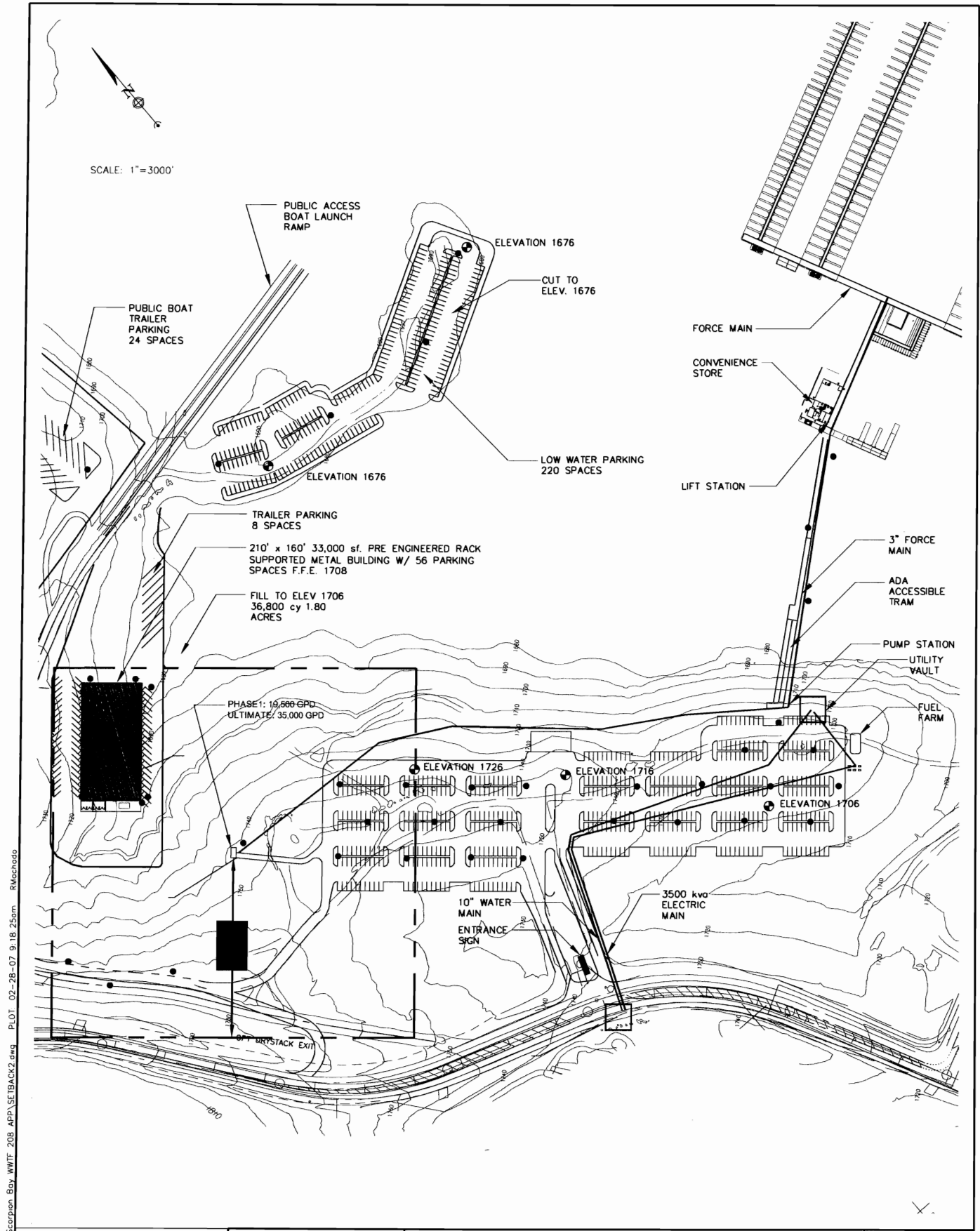
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05/06

SCORPION BAY MARINA WASTEWATER TREATMENT PLANT


Project Schedule



Project: Scorpion Bay Schedule
Date: January 2007



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	<p align="center">SCORPION BAY APP PERMIT</p>	<p align="center">FIGURE 6</p>
	<p align="center">SETBACK LINE FROM PROPERTY LINE</p>	<p align="center">DATE 02/07</p>

APPENDICES

APPENDIX A

Agreement Number C-30-06-012-1-00

**Maricopa County
Parks and Recreation Department**

Use Management Agreement

**For the Development, Operation and Maintenance of a
Dry Stack Storage, Watercraft Rental and Boating Supply Store Complex
At Lake Pleasant Regional Park**

COPY

ORIGINAL

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**Maricopa County
Parks and Recreation Department
Use Management Agreement**

**For the Development, Operation and Maintenance of a
Dry Stack Storage, Watercraft Rental and Boating Supply Store Complex
At Lake Pleasant Regional Park**

This Lake Pleasant Regional Park DRY STACK STORAGE, WATERCRAFT RENTAL, AND BOATING SUPPLY STORE COMPLEX Use Management Agreement, entered into this 7th day of December, 2005, hereinafter referred to as "Use Management Agreement" or "Agreement," is entered into between Maricopa County, a political subdivision of the State of Arizona, hereinafter referred to as "COUNTY," acting by and through its Board of Supervisors and Lake Pleasant Marina Partners, LLC, hereinafter referred to as "CONCESSIONAIRE," together hereinafter referred to as "PARTIES" or individually as a "PARTY."

RECITALS

WHEREAS the COUNTY, on June 29, 1990, entered into a Recreational Management Agreement with the United States Department of Interior, through the United States Bureau of Reclamation, hereinafter referred to as RECLAMATION, for development, use, and management of public recreation at Lake Pleasant Regional Park (hereinafter sometimes referred to as the "LPRP"). Said Recreational Management Agreement is designated by RECLAMATION as Contract No. 9-07-30-L0298 and was recorded with the Maricopa County Recorder's Office on June 29, 1990 at Recorder's No. 90-9292506; and

WHEREAS, pursuant to Article 13 of the LPRP Recreational Management Agreement, the COUNTY is authorized to enter "direct agreements with third parties to operate concession attractions, developments or services on the LPRP", and the DRY STACK STORAGE, WATERCRAFT RENTAL, AND BOATING SUPPLY STORE, hereinafter referred to as "the COMPLEX," is identified on the approved list of potential public recreational uses for a LPRP third party concession agreement as set forth in subarticle (d) of Article 13; and

WHEREAS, the COUNTY believes the public interest can best be served by contract operation of the concession attraction, development or service at reasonable rates located on a parcel of land lying within the area of the LPRP owned by RECLAMATION and managed by the COUNTY.

WHEREAS, while RECLAMATION is not a signing party to this Agreement, but as landowner has a vested interest in the activities conducted thereon, the COUNTY will obtain all necessary approvals from RECLAMATION regarding the construction and management of the COMPLEX. RECLAMATION has committed to provide timely and

expeditious review of all such matters and its approval will not be unreasonably withheld. In addition, RECLAMATION will notify the COUNTY of any issues involving the CONCESSIONAIRE and the COUNTY will communicate such to the CONCESSIONAIRE.

WHEREAS, this Agreement will require administrative action from time to time to carry out the spirit and intent of the Agreement, the Department Director for the Maricopa County Parks and Recreation Department is hereby given the authority and charged with the responsibility for proper administration of this Agreement, on behalf of the COUNTY, whether or not specific authority is granted in any provision of this Agreement.

WHEREAS, this Agreement is the result of an award pursuant to a public process and is a licensing agreement and not a lease agreement.

Now, therefore, pursuant to the authority contained in COUNTY procedures, and the Bureau of Reclamation Directives and Standards as identified in Exhibit B, in effect now or as may be modified or amended in the future, and for good and valuable consideration, receipt of which is hereby acknowledged by each of the PARTIES, the COUNTY and the CONCESSIONAIRE agree to enter into this Agreement in order to provide dry stack storage, watercraft rentals, boating supply store and other related services to the public at LPRP. The PARTIES hereby agree to adhere to and abide by the terms and conditions set forth in this Agreement.

GENERAL PROVISIONS

1. Concession Granted

The COUNTY hereby authorizes the COMPLEX on designated property within Lake Pleasant Regional Park, such property being more particularly described in Paragraph 5 below (hereinafter "the Concession Site"). The COMPLEX includes the COMPLEX Operation (facilities/improvements) at the Concession Site.

2. Term

The term of this Agreement shall commence on the date the Maricopa County Board of Supervisors approves this Use Management Agreement. The term of this Agreement shall be until June 28, 2040 (approximately 35 years) with a fifteen (15) year renewal option. The renewal option is subject to the mutual written agreement of both PARTIES and also subject to the COUNTY and RECLAMATION, agreeing in or before the year 2040, to execute the remaining fifty (50) year option of the Lake Pleasant Regional Park Recreation Management Agreement, Contract No. # 9-07-30-L0298. The minimum annual fee, commencing at the renewal term, is subject to escalation annually at a rate not to exceed five percent (5%) of the previous year's minimum fee or as otherwise agreed upon by PARTIES.

3. Anniversary Date

While this Agreement is effective on the date approved by the Board of Supervisors, the first contract year shall only run until December 31, 2005. Thereafter contract years shall run from January 1 through December 31, except the last contract year shall end June 28, 2040. January 1 shall be considered the anniversary date for all purposes of this Agreement.

4. Fees

During the term of this Use Management Agreement, the CONCESSIONAIRE shall pay the COUNTY a minimum annual amount or percentage of gross receipts, whichever is greater, according to the payment schedule attached as Exhibit C. The minimum annual amounts referred to shall be made during the month that each consecutive anniversary date of this Agreement occurs, in advance for the that year (i.e. in January 2007 the minimum annual amount will be due for the 2007 contract year). The additional fees due, if applicable based on the percentages indicated, shall become due and payable within ninety (90) days after the end of each contract year (i.e. the balance payment for the 2007 contract year will be due by March 31, 2008). If the balance due is not paid in a timely manner, the provisions of Paragraph 4.C will be imposed.

A. Gross receipts

(1) "Gross receipts" as used in this Agreement shall mean and is defined as follows:

- a) The total amount of annual revenue recognized in accordance with GAAP for the performance or any act, service or employment of whatever nature it may be, whether such service, act, or employment is done as a part of or in connection with the sale of goods, wares, CONCESSIONARE merchandise or not, for which a charge is made or credit allowed, including all receipts, cash, credits, and property of any kind or nature, any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expenses whatsoever; provided, the cash discounts allowed or taken on sales shall not be included.
- b) Revenues from Boat Shows and special events, such as entry fees, exhibitor fees, etc.
- c) Gross receipts may be reduced by any refunds given for any goods or services.

(2) Gross receipts does not include the following:

- a) Gross receipts shall not include the amount of any tax imposed on or with respect to retail sales whether imposed upon the retailer or upon the consumer and regardless of whether or not the amount of tax is stated to customers as a separate charge, or any state, or local sales, transaction privilege or use taxes required by law to be included in or added to the purchase price and collected from the consumer or purchaser.

- b) Sales from "vending" operations put on the premises and operated by COUNTY.
- c) Sales from Parks and Recreation Department merchandise available on consignment at Boating Supply Store.
- d) Such part of the sales price of any property previously sold and returned by the purchaser to the seller which is refunded by the seller by way of cash or credit allowances given or taken as part of payment on any property.
- e) Receipts from the sale or the trade-in value of any furniture, trade fixtures or equipment used on the Concession Site, and owned by the CONCESSIONAIRE.
- f) The value of any merchandise, supplies or equipment exchanged or transferred from or to other business locations of the CONCESSIONAIRE where such exchanges or transfers are not made for the purpose of avoiding a sale by the CONCESSIONAIRE which would otherwise be made from or at the Concession Site.
- g) Receipts in the form of refunds from or the value of merchandise, supplies, or equipment returned to shippers, suppliers or manufacturers.
- h) The amount of any cash or quantity discounts received from sellers, suppliers, or manufactures.
- i) The amount of the CIP fund set aside according to Paragraph 12.
- j) The amounts of any discounts given to the CONCESSIONAIRE's employees.
- k) Electrical billings for wet slip storage that are directly passed through to the user. This is not to be construed as other operational utilities.
- l) Fees from casual boat sales at the Concession Site.

The CONCESSIONAIRE shall not be credited with nor allowed to have any reduction in the amount of the gross receipts, as herein defined, which results from any arrangement for a "trade out type" agreement or other such agreement.

B. Fee Schedule

- (1) The schedule for minimum annual payments, additional fees and percentage calculator is attached as Exhibit C.
- (2) It is anticipated, and COUNTY will assist in the permit process, that the permitting process for up to 544 wet slips will be achieved by December 1, 2006. If this process is unavoidably delayed beyond that date, the fee schedule Exhibit C.1 will be implemented in its place.

C. Late Payment Interest Charge

The Debt Collection Act of 1982 requires the assessment of a late charge if payment is not received within thirty (30) days of the due date. The CONCESSIONAIRE shall make punctual payments (monthly payment, utility payments, end of year payments etc.) to the COUNTY through its Parks and Recreation Department of all amounts due under this Agreement. Payments will

be due and owing within thirty (30) days of billing by the COUNTY if it is a charge which is billed, or within thirty (30) days of the due date as identified in this Agreement. Payments not received within the above time periods will be deemed late. Late payments will subject the CONCESSIONAIRE to administrative penalties of 10% of the amount billed or due and owing, and interest at the statutory rate from the billing or due date. In addition, failure to make timely payments will be deemed a default of this Agreement. In the event of litigation to enforce this provision (collection or default), the prevailing party shall recover its attorney's fees and costs in such proceeding.

5. Concession Site

The Concession Site is approximately 200 acres of land and water area at Lake Pleasant Regional Park. A map of the Concession Site is shown in Exhibit A., attached hereto. Boundaries, as depicted, are subject to change with mutual agreement.

6. Performance Guarantee

A. Financing

Within forty-five (45) days of approval of this Agreement by the Maricopa County Board of Supervisors, the CONCESSIONAIRE shall provide the COUNTY with approved loan documents, letter of credit or other documentation to demonstrate to the COUNTY's satisfaction that the CONCESSIONAIRE has secured adequate financing to complete those projects identified in the Phase I development of the Concept Plans. Failure to provide such documentation of financial commitment or if such documentation fails to show that the CONCESSIONAIRE can complete the projects, shall result in immediate cancellation of this Use Management Agreement by written notice to the CONCESSIONAIRE.

B. Capital Construction Guarantee

In addition, within thirty (30) business days of the permitting of a minimum of 544 wet slips or notice to the COUNTY that CONCESSIONAIRE is moving forward to construct a lesser permitted amount, the CONCESSIONAIRE shall establish a construction fund of at least 80% of the funds required for preparation and construction of Phase I of the capital improvements identified in the concept plans submitted according to Paragraph 16 in lieu of a formal performance bond. During the period of initial construction of capital improvements, 80% of the funds necessary for completion of each respective phase of construction, e.g. Phase I, II or III will at all times remain in the construction fund account. If the Phase I capital improvements are not completed by the CONCESSIONAIRE as set forth within a time mutually agreed upon between the PARTIES, in writing, funds in the Capital Construction Guarantee account will be forfeited to the COUNTY as liquidated damages for non-performance and place the CONCESSIONAIRE in default. The CONCESSIONAIRE will provide to the

COUNTY, through its Parks and Recreation Department, a monthly statement regarding activities in this account. When the capital improvements as set forth in Phase I final plans are ninety percent (90%) complete as evidenced by an approximate expenditure of ninety percent (90%) of the funds committed to initial capital improvements, then the requirement to maintain the balance in this account is waived.

At the start of each subsequent phase of construction, a new minimum amount will be agreed to, in writing, for the subsequent phase to remain in the construction fund.

7. Accounting Records

The CONCESSIONAIRE shall maintain an accounting system which conforms to generally accepted accounting principles and which accurately reflects the results of the entire operation of the COMPLEX. These financial records shall be retained for a seven (7) year rolling period from the current contract year. The final seven (7) years of records shall also be retained for five (5) years beyond the expiration date of this Agreement. These financial records shall be made available for inspection or audit by the COUNTY, Federal or State Government, their agents or employees at least, but not more than once per contract year.

Within thirty (30) days after the end of each calendar quarter the CONCESSIONAIRE shall prepare and submit electronically, in spreadsheet format, a report itemizing gross receipts, exclusions from gross receipts and pass-throughs for the quarter just completed. Within ninety (90) days after the end of the CONCESSIONAIRE's contract year, the CONCESSIONAIRE, at its own expense, shall prepare and submit to the COUNTY, an Annual Financial Report (AFR) reflecting the income and expenses as well as balance sheet for the entire operation of the COMPLEX for the contract year just completed. Said financial statements shall, at a minimum, be reviewed by an independent auditor. This independent auditor must be a Certified Public Accountant. This report shall include a statement that the amounts shown in the financial reports are consistent with those included in the CONCESSIONAIRE's federal and state income tax returns relating to the COMPLEX operation. If these are not the same, a statement explaining any differences shall be included. If the CONCESSIONAIRE's books, records and other documents relevant to this Agreement are not sufficient to support and document reported sales, the CONCESSIONAIRE shall, within thirty (30) days of the auditor's report, make payment to the COUNTY for any amounts not adequately supported and documented.

8. Required Services

The CONCESSIONAIRE is required to provide the following services under the terms of this Agreement, according to Section 4.3 of the Request for Proposal ("RFP") which resulted in this Agreement:

- A. Motorized watercraft rental and fueling/repair station
- B. Non-motorized watercraft rental
- C. Moving wet boat storage
- D. Dry stack boat storage
- E. Boating supply store
- F. Boat ramp
- G. Parking at the Concession Site
- H. Infrastructure improvements at the Concession Site.

9. Authorized Services

The CONCESSIONAIRE is authorized, but not required to provide the following visitor services during the term of this Agreement:

- A. Photo and film supplies
- B. Prepared food (COUNTY must be provided with Health Inspection Compliance reports)
- C. Liquor, beer, subject to Arizona State Licensing requirements
- D. Interpretive materials (books, postcards, posters, photographs)
- E. Boat launching, for a fee, when specifically requested
- F. Propane sales
- G. Trailer storage and long-term boat storage
- H. Fishing and hunting licenses, subject to approval of the Arizona Game and Fish Department
- I. Pay Phone Service.
- J. Maricopa County Park and Recreation Department merchandise.

10. Operating Season

Prior to opening and by January 2nd of each year thereafter, the CONCESSIONAIRE shall submit to the COUNTY an annual operating schedule showing hours and days of operation. The COUNTY reserves the right to approve this schedule. This schedule may be amended by written approval from the Parks and Recreation Department. The CONCESSIONAIRE shall provide those security measures that are deemed necessary to reasonably protect the Concession Site during operational hours as well as during those hours when the facility is closed.

11. Rate Schedules

Prior to opening Phase I and by January 2nd of each year thereafter, the CONCESSIONAIRE shall provide such a listing of prices and charges to COUNTY.

It is the intent of the COUNTY that the services and facilities shall be made available to the general public at reasonable fees and charges. The CONCESSIONAIRE agrees to make the facilities available to the general public

at reasonable fees and charges. In general, the market shall determine rates for fees and charges and the price of merchandise sold.

The CONCESSIONAIRE shall post and at all times keep on public display the prices, rates, and charges of all goods and services, as well as the acceptable forms of payment.

12. Long Term Capital Improvement Fund

Beginning on January 1, 2007, or first calendar year after completion of Phase I, whatever is later, the CONCESSIONAIRE shall be required to set aside one percent (1%) of the annual gross receipts of the prior contract year for the establishment of a Capital Improvement Project Fund ("CIP fund"). The CONCESSIONAIRE shall establish a separate account entitled Lake Pleasant Marina Partners CIP Fund. As long as the investments have sufficient liquidity to satisfy the obligations set forth herein, the CONCESSIONAIRE shall direct the investment of those funds. The COUNTY shall have final authority over approval of expenditures from this CIP fund after consultation with the CONCESSIONAIRE. The CONCESSIONAIRE shall provide quarterly reports to the COUNTY showing fund activity. At the end of term of this Agreement, any funds left unencumbered for current capital improvements shall be divided equally between the CONCESSIONAIRE and the COUNTY.

Beginning with Contract Year four (4) (January 1, 2008) and within sixty (60) days after the end of each contract year thereafter, the CONCESSIONAIRE shall provide to the COUNTY, for its review and approval, an Annual Capital Improvement/Major Maintenance Repair Plan for the next three to five years. This Plan shall include a budget which details any planned expenditures from the CIP fund. Requests for use of the CIP fund for purposes not budgeted will be considered on a case by case basis.

The CIP fund during the term of the Use Management Agreement will only be expended for new capital improvements or major maintenance and repair of existing facilities, structures, and other improvements which substantially extend the useful life of existing facilities, structures and other improvements or improve revenue-generation opportunities. It will not be used for on-going operating expenditures or routine maintenance. Expenditure of the CIP Fund will only be made with consent and approval from the COUNTY.

The CIP fund will be capped at the point that it reaches \$1.5 million in fund balance. Payments in will remain at one percent annually.

If the CONCESSIONAIRE deems the decision by the COUNTY regarding expenditures from the CIP fund to be arbitrary and not responsive to other immediate needs of the COMPLEX, the CONCESSIONAIRE may request the COUNTY to seek input from a qualified consultant or other expert in the field of dry stack storage, watercraft rental, and boating supply store operations. The COUNTY and the CONCESSIONAIRE shall agree on the consultant and share

any cost equally. However, the COUNTY shall retain the right to make the final decision on expenditures from the CIP fund.

Expenditures eligible to be paid from the CIP fund are for those capital items beyond those identified in the Initial Capital Improvement Budget Construction schedule as set forth in Exhibit "C" and beyond those considered routine maintenance which are required to ensure that the COMPLEX and facilities are protected against disrepair or obsolescence as set forth in Paragraph 18. With COUNTY approval, the CIP fund may be used for items agreed upon by the PARTIES, including but not limited to such items as:

- Major repair/replacement of boat slips
- Major repair/replacement of dry storage units
- Re-paving of the parking lot
- Major repair/replacement of wastewater treatment system
- Major re-roofing of the dry boat storage roof
- Major repair/replacement of the fuel tanks

13. Quality of Service

The CONCESSIONAIRE shall furnish services as stated in this Agreement in a diligent, professional and creditable manner satisfactory to the COUNTY in accordance with all applicable statutes, laws, ordinances, rules and regulations. An annual evaluation may be made of the quality of operation and maintenance of the COMPLEX and of compliance with all terms of this Agreement to determine if there are areas of deficiency to be addressed and corrected. The CONCESSIONAIRE shall give full cooperation in this evaluation process. Failure to timely address deficiencies will be grounds for default. The COUNTY reserves the right to prohibit the sale or rental of any items or services it reasonably deems dangerous, unsafe, unhealthy, or beyond the scope of merchandise necessary for proper service to the public. Glass beverage containers are not permitted in any area of LPRP which includes the COMPLEX, or any extension thereof (e.g. floating convenience store, etc.)

14. Right to Encumber

The COUNTY does hereby consent and agree that the CONCESSIONAIRE may encumber this Agreement including any of the CONCESSIONAIRE's furniture, fixtures, equipment and inventory related to operation of its business which is the subject matter of this Agreement, by chattel mortgage, UCC security agreement or other security-type instrument to assure the payment of a promissory note or other obligations of the CONCESSIONAIRE. The CONCESSIONAIRE may not mortgage or encumber any improvements that are permanently affixed to the land or any lands upon which the COMPLEX lies. Improvements that can be disassembled and removed without damage to the underlying real estate are not considered permanently affixed (e.g. rack supported structures and storage systems such as dry stack storage; floating marina system; above ground water

treatment, sewage and fuel systems). In the event said security type instrument should at any time be in default and be foreclosed or transferred in lieu of foreclosure, written approval of the COUNTY must be obtained prior to any assignment of this Agreement as set forth in Paragraph 17.D.

15. Insolvency or Bankruptcy

Upon proceedings resulting in an involuntary or voluntary bankruptcy, or state or federal receivership, wherein a receiver is in possession of the assets of the CONCESSIONAIRE, the COUNTY and the CONCESSIONAIRE specifically agree that such action constitutes a breach and default of this Agreement notwithstanding 11 U.S.C. Section 365 of the Bankruptcy Code and the provisions of Paragraph 27, captioned "Default and Termination," of this Agreement will apply. The CONCESSIONAIRE must notify the COUNTY of its intent to seek bankruptcy protection at the earliest possible time prior to such filing.

In the event that bankruptcy proceedings serve to terminate this Agreement through a judicial process or as provided above, a lender which has made itself known to the COUNTY, in writing, shall be permitted to enter into a new Use Management Agreement under the same terms and conditions as contained herein provided that prior to entering into such new Agreement, the lender retains a manager or operator as follows:

- (1) The manager or operator is an experienced dry stack storage, watercraft rental, and boating supply store complex manager or operator and is recognized in the dry stack storage, watercraft rental, and boating supply store business community as such; and
- (2) Such manager or operator agrees to manage and is capable of operating the COMPLEX in a manner and at a level suitable to the COUNTY and consistent with the standards of the dry stack storage, watercraft rental, and boating supply store business community.

If such conditions are met, the approval of the COUNTY for such manager or operator will not unreasonably be withheld or delayed.

16. Development Process

At a minimum, each Phase of development (Phase I and future phases) will include the three stages of review during the development process and will consist of the following:

A. Concept Plans

Within sixty (60) days of approval of the Use Management Agreement by the Maricopa County Board of Supervisors, Concept Plans shall be submitted to the Parks and Recreation Department for review and approval. The

CONCESSIONAIRE will not proceed with the second phase (Preliminary Plans) until a written acceptance and notice to proceed is received from the COUNTY.

Concept Plans will be prepared at a scale of 1" = 200' on topographic base maps. Plans will identify schematic site configurations including: circulation patterns; use areas; building envelopes; drainage patterns, including pre-development 100-year discharges; grading concepts, including proposed finish grades at critical elements (buildings, ramps, etc.); architectural concepts including gross square footage, building type, options for exterior finishes, and roofing; landscape concepts including hardscape and planting areas, signage and plant materials; site lighting concepts including types and potential locations; and conceptual utility requirements including power, water, sewer, and telephone. (Additionally, future expansion potentials will be identified).

Concept plans will include budget and construction schedules.

B. Preliminary Plans

Following the initial project meeting, Preliminary Plans will be provided to the COUNTY within sixty (60) days of receipt of acceptance of Concept Plans and written notice to proceed with Preliminary Plans. The CONCESSIONAIRE will not proceed until such notice is given.

Preliminary Plans will be prepared at a scale of not greater than 1" = 50' on topographic base maps. Plans will identify layouts for Phase I construction for all site elements including circulation and parking, activity areas, buildings, drainage, grading, landscaping, lighting, signage and utilities. Plans will conform to all applicable codes and will meet Federal Accessibility Standards. Proposed floor plans and elevations will be prepared for all buildings. Capacities and circulation patterns will be identified for all vehicular and trailered traffic, including wet and dry storage facilities. Schematics for handling storm water runoff will be prepared and will include calculations for post-development runoff. A preliminary grading plan will be prepared which will identify areas of cut and fill as well as all proposed finished floor and other critical finished grade elevations. The preliminary landscape plan will include type and spacing of plant materials for screening and landscaped areas, earth forms, hardscape elements, typical plantings in key areas such as entryways and walkways, and a plant palette. Site lighting will be shown in proposed locations. Proposed locations and types of signs, including materials, color, etc., will be presented. "Landscaping, Site Construction, and Color Scheme: All new facilities should be constructed of materials that blend with the surrounding landscape in form, texture, line and color." Utility schematics, including desired locations for points of connection, will be developed. Loading requirements will be calculated. Preliminary cost estimates and quantities will be prepared.

C. Final Plans

Final plans shall be submitted to the COUNTY for review at the 30%, 60%, and 90% stages of completion. With prior written approval of the COUNTY, the 30% submittal review may be satisfied by the Preliminary Plans stage. Any deviation from the Final plans must be approved in writing by the Parks and Recreation Department.

Final Plans shall be prepared at a scale not greater than of 1" = 50'. Plans shall conform to all applicable codes and will meet current Federal Accessibility Standards.

Final plans shall consist of all plans and specifications necessary to construct the COMPLEX. These will include, but not be limited to, the following: architectural, landscape architectural and engineering components.

Final plans will include the budget and construction schedule and anticipated dollar expenditures.

D. "As Built" Plans

"As Built" Plans will be submitted to COUNTY upon completion of said facility/complex for all Phases of construction. Plans submitted shall consist of all plans, specifications and support documentation necessary to construct the COMPLEX. These will include, but not be limited to, the following: architectural, landscape and engineering components, copies of permits/approvals needed for construction and all supporting documentation.

E. Plan Approval

- (1) Plans for new improvements or construction activities, or the modification of existing improvements must be submitted in writing to COUNTY for its prior review and written approval. No improvements or construction activities may commence until prior written approval is granted.
- (2) All docks placed within the Concession Site must meet specifications mutually agreed upon between COUNTY and CONCESSIONAIRE as part of the development process.
- (3) All utility lines shall be placed underground.
- (4) Improvements and/or construction activities may require the completion of National Environmental Policy Act ("NEPA") reviews, cultural resource compliance, and US Army, Corps of Engineers permitting requirements before any improvements and/or construction activities commence. As such, and depending upon the extensiveness of proposed improvements, the CONCESSIONAIRE must plan its activities in advance and provide COUNTY, and relevant permitting authorities, sufficient time to review all drawings and proposals, prepare NEPA documentations, etc.
- (5) The CONCESSIONAIRE shall comply with all applicable health, building, zoning, fire and safety codes, all applicable environmental statutes,

regulations and ordinances, the Americans with Disabilities Act of 1990, the Architectural Barriers Act of 1968, the Uniform Federal Accessibility Act of 1983, and the Arizona Native Plant Law. The CONCESSIONAIRE shall be responsible for obtaining all applicable permits, licenses, etc., including, but not limited to, safety, fire, health, building, zoning, drainage, grading, environmental, etc. Upon approval of plans and specifications, and the securing of necessary permits, licenses, etc., the CONCESSIONAIRE may commence construction. A copy of reproducible as-built "mylar" plans and specifications as well as electronic files shall be furnished to the COUNTY within thirty (30) days of completion.

- (6) The CONCESSIONAIRE shall diligently pursue all required permits in an expeditious manner which will allow the earliest possible date for construction of the Concession Site. Acquisition and costs for all permits are the responsibility of the CONCESSIONAIRE. If, for any reason construction of the Concession Site does not begin within three (3) years of the permitting of the wet slips, the COUNTY may unilaterally cancel this Agreement upon written notice to the CONCESSIONAIRE and the amount in the construction account (see Paragraph 6.B) will be forfeited.
- (7) The CONCESSIONAIRE shall design, construct or reconstruct improvements at the COMPLEX including all costs associated with meeting any federal, state or local permitting requirements. Any construction or renovation at any time during this Agreement shall require prior approval of the COUNTY.

17. Concessionaire Provided Improvements

A. Concessionaire Property

The CONCESSIONAIRE shall provide at its expense all equipment, furnishings, and supplies necessary to fulfill its obligations under the terms and conditions of this Agreement, including but not necessarily limited to the following:

- (1) All equipment necessary to operate the concession store.
- (2) All property or equipment for recreation-related services the CONCESSIONAIRE is required to provide and any equipment needed for additional services offered.
- (3) Vehicular support for the concession operation.
- (4) Tools and maintenance equipment needed for maintenance of facilities.

B. Improvements

General descriptions of the improvements to be constructed are presented in the Request for Proposal documents and are to be considered a part of this Agreement. The estimated development costs at the time of the RFP were \$13,062,000

Further, the CONCESSIONAIRE agrees to expend, at a minimum, the total budgeted costs for improvements as set forth in the Request For Proposal documents or within ten percent (10%) thereof (\$11,755,800). However, such expenditures are not restricted to each specific improvement. The

CONCESSIONAIRE shall provide the COUNTY with financial records to substantiate the expenditures for such capital improvements.

C. Utilities/Mechanical Maintenance

The CONCESSIONAIRE will be required to pay the cost of all utilities, including the cost of bringing utilities to the COMPLEX. The CONCESSIONAIRE shall be responsible for installing a meter at the point of contact. This meter shall be designated as the COMPLEX meter. The COMPLEX meter shall meet the COUNTY's specifications. In addition, COMPLEX will be separately billed by the independent service provider.

D. Ownership of Improvements Upon Expiration or Termination

Upon the expiration or termination of this Agreement, or any renewal thereof, for reasons other than the default of the CONCESSIONAIRE, the COUNTY agrees to purchase all improvements by CONCESSIONAIRE on the COMPLEX SITE necessary for the operation of the COMPLEX including non-obsolete/non-perishable store inventory and fuel inventory, at 90% of fair market value, as determined by an appraiser agreed upon by both of the PARTIES hereto, or if the PARTIES cannot agree on an appraiser, each party shall hire its own appraiser to value the property. Costs of appraisals shall be shared by the PARTIES equally. If the appraisals are within ten (10%), the fair market value shall be the average of the two appraisals. If the difference in the appraisals is more than ten (10%), the PARTIES shall make a good faith attempt to agree on a compromise fair market value. If a compromise cannot be reached, the matter will be submitted to mediation pursuant to Paragraph 29. The CONCESSIONAIRE shall remove any and all of its personal property which is not subject to purchase by the COUNTY, , personal effects, or other personal property owned or leased by the CONCESSIONAIRE which is not necessary for the COUNTY'S operation of the COMPLEX, and shall restore the Concession Site to a condition satisfactory to COUNTY. All property not removed within sixty (60) days of the termination date of this Agreement shall thereafter be considered abandoned and will automatically become the property of COUNTY and subject to disposal under COUNTY regulations. Removal of property and/or any required repair or restoration of COUNTY land or facilities by COUNTY after sixty (60) days following the termination date of this Agreement will be performed by COUNTY and the CONCESSIONAIRE will be billed for all reasonable costs associated with the performance of this work.

Ownership of improvements upon termination for default by CONCESSIONAIRE is subject to Paragraphs 27 & 28.

18. Limitations

A. Utility Easements

The COUNTY shall retain the right to establish access or utility easements through the COMPLEX provided, however, the COUNTY shall not unduly interfere with the CONCESSIONAIRE's use of the COMPLEX. Reasonable notice shall be provided to the CONCESSIONAIRE and such installation of utilities shall be coordinated with the CONCESSIONAIRE. Relocation of any existing utilities by the CONCESSIONAIRE shall be coordinated with, and prior written approval obtained from the COUNTY. Said relocation, if requested by the CONCESSIONAIRE, shall be at the expense of the CONCESSIONAIRE. As-built drawings of all utility installations by the CONCESSIONAIRE shall be furnished to the COUNTY within thirty (30) days of completion of the project. As-built drawings of all utility installations by the COUNTY shall be furnished to the CONCESSIONAIRE upon request.

B. Additional Services

The CONCESSIONAIRE shall have the right to use the Concession Site only for the activities set forth in Paragraphs 8 and 9 of this Agreement and any other products, sales and/or services approved, in writing, by the COUNTY. This Agreement does not preclude the COUNTY from granting rights to similar additional services items as listed in Paragraph 9 at other locations within LPRP. However, any future required COMPLEX activities as outlined in Paragraph 8, as well as Boat and Trailer Storage, deemed appropriate and desirable by the COUNTY shall first be offered to the CONCESSIONAIRE.

C. Assignment

The CONCESSIONAIRE may not assign, sublet, or subcontract any of the CONCESSIONAIRE's rights or interests in the heretofore described COMPLEX without prior written approval of the COUNTY. The principal stockholders or partners must remain in majority control of the business entity throughout the term of this Agreement, unless an assignment of the majority control is approved, in writing, by the COUNTY. Violation of the above shall be considered a breach of this Agreement. It is not the intent of this Paragraph to hinder or prevent the CONCESSIONAIRE from offering collateral to lending institutions. The CONCESSIONAIRE may encumber its equity in this Agreement, provided the proceeds of such loan are used to benefit only the COMPLEX Operation described in General Provisions.

In the event the CONCESSIONAIRE defaults pursuant to the terms of any such loan agreement, CONCESSIONAIRE's rights in this Agreement may be transferred to the holder of the security interest as provided in Paragraphs 14 and 15 of this Agreement.

This Agreement may only be assigned to a person or entity ("ASSIGNEE") for its unexpired term and only with prior written consent of COUNTY. COUNTY shall review the business management capability of the ASSIGNEE, shall require a background survey including financial profile and felony arrest record report of the ASSIGNEE, and may require that a financial analysis of the concession operation including an appraisal of real property improvements be conducted before approving an assignment of the Agreement.

The CONCESSIONAIRE shall provide COUNTY with at least ninety (90) days prior written notice of a sale or transfer of this Agreement so any requested analysis or study can be completed in a timely manner. The CONCESSIONAIRE shall pay COUNTY an initial administrative transfer fee of \$2,500.00 upon notification of a potential assignment. The CONCESSIONAIRE must also agree to pay any additional charges COUNTY incurs as a result of the assignment.

Conditions of the Agreement are subject to change by COUNTY before approval of a sale transfer. The length of the term may be reduced but not extended.

COUNTY understands that the CONCESSIONAIRE will have made financial investments in the Concession Site and COUNTY will work with the CONCESSIONAIRE and any ASSIGNEE to expedite the sale and transfer of the Agreement to a COUNTY approved ASSIGNEE.

This Agreement shall be binding on and inure to the benefit of the PARTIES, their respective heirs, successors and assigns, whether by agreement or operation of law as authorized by this Agreement.

The CONCESSIONAIRE may not develop business partnerships with other individuals or companies to provide goods, and services of the COMPLEX, without the prior written approval of COUNTY. No such partnership or business arrangement shall provide for the continual presence of anyone on the Concession Site but the CONCESSIONAIRE or its employees. The CONCESSIONAIRE may not sub-concession any activities or services required under Paragraph 8 by this Agreement, or other services or activities not specifically addressed herein, except by written agreement from the COUNTY.

It is understood at the signing of this Agreement that Skipper Marine Development is the development agency selected by the CONCESSIONAIRE for development and management of the COMPLEX.

D. Concessionaire Occupancy

The establishment of a residence, either permanent or temporary, requires the following:

- (1) The preparation of a Special Use Permit, defining the term of the residency.
- (2) Written approval by the Department Director after securing approval from the Bureau of Reclamation.

- (3) Demonstrated benefit to the COUNTY and CONCESSIONAIRE in terms safety, monitoring, revenue enhancement.
- (4) No fee shall be charged to the concessionaire for the issuance of the Use Permit.

E. Equipment Storage

The CONCESSIONAIRE may not store any personal equipment (except as may be determined appropriate by COUNTY) at the Concession Site or elsewhere at LPRP which does not specifically support the daily operation of the services required under the terms and conditions of this Agreement.

F. Construction Schedules

The CONCESSIONAIRE agrees to schedule and conduct any construction activity in the Concession Site in a manner that minimizes hazards and inconvenience to the public.

G. Right of Entry

There is reserved to the COUNTY and/or RECLAMATION, its successors, agents, the right of the officers, agents, employees, licensees, and permittees, or the designees of public bodies, at all proper times and places, freely to have ingress to, passage over, and egress from all of said lands, for the purpose of exercising, enforcing, and protecting their rights and the terms and conditions described in and reserved by this Agreement, including the right of physical entry to the area for inspection, monitoring, or any other purpose consistent with any right or obligation of the COUNTY under any law or regulation, or for the purposes of surveying park users and customers at the Concession Site. The COUNTY will notify the CONCESSIONAIRE of any unsatisfactory condition relative to the construction, management, operation and maintenance of the COMPLEX. The CONCESSIONAIRE shall take immediate action to correct such conditions at the CONCESSIONAIRE's expense.

H. Damages

The CONCESSIONAIRE hereby releases the COUNTY and/or RECLAMATION from all claims for damages to CONCESSIONAIRE owned facilities, structures, or improvements, authorized by this Agreement, or to the property stored or used in connection therewith, resulting from reservoir fluctuation, blowing silt, or from any future modification of the dam, reservoir, or adjoining COUNTY and/or RECLAMATION lands.

I. Suspension

The COUNTY shall have the authority to immediately suspend any of the CONCESSIONAIRE's operations if it is determined that there is an imminent risk or threat to the public, employees or park staff and to enhance or protect project

purposes, resources, health and enjoyment. Such suspension to remain in effect until the risk or threat has been resolved to the reasonable satisfaction of the COUNTY.

The CONCESSIONAIRE shall temporarily suspend any of its COMPLEX operations in the event conditions (natural, man-caused or mechanical) present a risk to the Concession Site, the employees, the public or park staff. If the CONCESSIONAIRE so suspends operations, the COUNTY shall be immediately notified, and the suspended operations shall resume as soon as reasonably possible following a resolution of the hazard or condition causing the temporary suspension at which time the Park supervisor will be notified.

If the park is closed for more than 30 days, the CONCESSIONAIRE may apply to the COUNTY and receive a corresponding offset to the annual minimum payment if the closure was not caused by the fault or negligence of the CONCESSIONAIRE.

In the event of such suspension, COUNTY shall not be liable for any compensation to the CONCESSIONAIRE for any losses, including, but not limited to, lost income, profit, wages, or other compensation, which may be claimed by the CONCESSIONAIRE. In the event COUNTY determines that such a suspension is sufficient to prevent the continued operation of this Agreement, this Agreement shall be terminated in accordance with Paragraph 20 of this Agreement.

J. Exclusive Use

The CONCESSIONAIRE shall not allow the development of exclusive uses within the Concession Site, such as pouring rights, naming rights or franchising. COUNTY retains the right to determine the definition or instances of exclusive use. For example, the CONCESSIONAIRE cannot sell naming rights to Coppertone to become the "Coppertone Convenience Store."

K. Seasonal Use

The COMPLEX operation at Lake Pleasant Regional Park is anticipated to be a year-round operation. Availability to floating dock and wet slips for customers is anticipated to be 24/7/365. Other reasonable access hours will be agreed to in accordance with Paragraph 10.

L. Park Closure

The COUNTY reserves the right to close any area of the LPRP when deemed necessary. The COUNTY may establish limits of visitation at any area of LPRP including the COMPLEX, based on public health and safety, availability of parking spaces, or any other reason deemed by the COUNTY to be in the public interest. COMPLEX patrons do not have superior rights over other visitors to the

LPRP in the event the LPRP is temporarily closed. The COUNTY will make reasonable efforts to maintain access to the COMPLEX.

M. Provision for Alcoholic Beverages

The CONCESSIONAIRE may otherwise acquire appropriate Arizona liquor licenses from the Arizona Department of Liquor Licenses and Control. The COUNTY shall not object to the CONCESSIONAIRE providing alcoholic beverages to the public as allowed pursuant to such licenses to the extent allowed by Park Rules as they may be amended from time to time. Upon securing a liquor license, the CONCESSIONAIRE shall comply with all applicable statutes, laws, rules and regulations governing the sale of alcoholic beverages. The CONCESSIONAIRE shall protect, defend, indemnify and hold harmless RECLAMATION and the COUNTY from and against all damages, liabilities, costs, charges and expenses including attorneys' fees and court costs from any activity, condition or event arising out of or related to the CONCESSIONAIRE's storage, sale, use or disposition of alcoholic beverages on or from the COMPLEX, or any extension thereof (e.g. floating convenience store, etc.).

19. Concessionaire Operation And Maintenance Responsibilities

A. Annual Operating and Maintenance Plan

Within 60 days after the beginning of contract year one and by March 1 of each contract year thereafter, the CONCESSIONAIRE will provide to the COUNTY a Routine Operating and Maintenance (O&M) Plan for the COUNTY's review and approval. Routine maintenance or repair is that which would normally be expensed during a contract year under Generally Accepted Accounting Principles ("GAAP"). This plan shall identify all proposed projects which require regular repair or on-going maintenance of existing facilities and structures. The O&M plan shall describe how often maintenance activities will be performed at the Concession Site, how the CONCESSIONAIRE will provide services to the public, proposed hours of operation, how often trash pick-up will occur, protection of public health, safety, and the environment, and emergency plans in the event of fire or hazardous material spills. The plan shall contain sufficient detail to enable COUNTY to monitor operations for compliance. The CIP Fund cannot be used for expenditures in this category. Examples of expenditures in this category may include, but not be limited to, the following:

- (1) Painting of the COMPLEX and other facilities,
- (2) Repair of vandalism,
- (3) Repair or replacement of deck area,
- (4) Repair due to normal wear and tear,
- (5) General maintenance of facilities and improvements to protect against disrepair or obsolescence,
- (6) Placing, anchoring, adjusting, or otherwise operating and maintaining service docks and the boat ramp courtesy dock,

- (7) Maintain and repair the fish cleaning station if applicable during the recreation season, in accordance with the COUNTY and Arizona Game and Fish; and
- (8) Chip sealing the parking lots.

B. Concessionaire Responsibilities

The CONCESSIONAIRE accepts responsibility for the management, operation, and maintenance of the COMPLEX and Concession Site during the term of the Agreement.

In the event the CONCESSIONAIRE does not maintain CONCESSIONAIRE owned buildings or improvements to meet codes or standards of COUNTY, COUNTY will give the CONCESSIONAIRE thirty (30) day written notice to correct the problem, or remove the subject property from COUNTY property.

In addition the CONCESSIONAIRE agrees to assist in the collection of data related to recreation uses occurring within the Concession Site (COUNTY will provide the form on which to collect such data)

C. Housekeeping

It is the responsibility of the CONCESSIONAIRE to provide employees and visitors a safe, orderly, sanitary and visually acceptable Concession Site. The CONCESSIONAIRE shall provide all necessary housekeeping activities so that clean and sanitary conditions exist at all times. In order to assure a high standard of physical appearance, operation and maintenance for the COMPLEX, appropriate inspections may be performed by the COUNTY and RECLAMATION. Should the COUNTY require the CONCESSIONAIRE to perform maintenance or make repairs to meet this standard, the CONCESSIONAIRE shall comply in a timely manner or be subject to default.

20. Termination

A. Termination

- (1) COUNTY may terminate this Agreement in whole or in part for default.
- (2) Operations under this Agreement may be suspended in whole or in part at the discretion of COUNTY when necessary to enhance or protect area resources or visitor enjoyment or safety.
- (3) Termination or suspension for default may be utilized in circumstances where the CONCESSIONAIRE has breached any requirement of this Agreement, including, but not limited to, failure to maintain and operate facilities and services to the satisfaction of COUNTY in accordance with COUNTY's requirements hereunder. (See Paragraph 27)
- (4) In the event it is deemed necessary by COUNTY to suspend operations under this Agreement, in whole or in part to enhance or protect area resources or visitor enjoyment or safety, COUNTY shall not be liable for any compensation to the CONCESSIONAIRE for losses occasioned thereby,

including but not limited to, lost income, profit, wages, or other monies which may be claimed other than as provided in Paragraph 18.I Sub-Paragraph 3.

- (5) To avoid interruption of services to the public upon the expiration or termination of this Agreement for any reason, the CONCESSIONAIRE, upon the request of COUNTY, may continue to conduct all operations hereunder for a reasonable period of time to allow COUNTY to select a successor CONCESSIONAIRE.
- (6) Failure of the CONCESSIONAIRE to make required concession payments within sixty (60) days of the due date may be grounds for termination of this Agreement.
- (7) Any activity deemed to be illegal on Federal, State, COUNTY and local lands will be cause for immediate termination of the Agreement.

B. Service of Written Notice

Written notices required or permitted pursuant to this Agreement shall be served or given as set forth in Paragraph 21.M of this Agreement.

C. Interim Operations

COUNTY may select an interim operator in the event this Agreement is terminated for default prior to its termination date. A new CONCESSIONAIRE may be selected as the interim operator if COUNTY deems it to be in the best interests of the COUNTY.

21. Indemnification and Insurance

A. Indemnification

The CONCESSIONAIRE shall indemnify and hold harmless the COUNTY and RECLAMATION from any claims by third parties in connection with construction and maintenance of facilities at the COMPLEX. It is expressly agreed that for the purposes of this Agreement, the CONCESSIONAIRE is not the agent of the COUNTY or RECLAMATION for any purpose whatsoever. The CONCESSIONAIRE shall not have any authority to create any lien against the COUNTY or RECLAMATION for labor, materials, or services furnished by the CONCESSIONAIRE, its contractors or sub-contractors. If, because of any act or omission (or alleged act or omission) of the CONCESSIONAIRE, any mechanic's, materialman's or other lien, charge or order for the payment of money shall be filed or recorded against the Concession Site or any building or improvement thereon or against the COUNTY or RECLAMATION (whether or not such lien, charge or order is valid or enforceable as such), the CONCESSIONAIRE shall immediately notify the COUNTY. The CONCESSIONAIRE shall, at its own expense, cause the same to be canceled and discharged of record within thirty (30) days after the CONCESSIONAIRE shall have received notice of the filing thereof, or the CONCESSIONAIRE may, within said period, furnish to the COUNTY a bond satisfactory to the COUNTY against said lien, charge or order, in which case the CONCESSIONAIRE shall

have the right in good faith to contest the validity or amount thereof, as provided by law. The CONCESSIONAIRE's failure to bond over or remove said lien, charge or order may be considered a breach of this Agreement.

The CONCESSIONAIRE agrees to indemnify and hold harmless both RECLAMATION as well as the COUNTY including any of their departments, agencies, officers, or employees, from and against all liability, loss, expense, damage, claim or judgment of any nature whatsoever including attorney's fees and court costs which is caused by any activity, condition or event arising out of the performance or non-performance of the provisions of this Agreement, except where caused by the sole or contributory negligence or willful misconduct of the COUNTY and RECLAMATION and/or of any of its departments, agencies, officers, employees, or agents.

B. Insurance

The CONCESSIONAIRE shall maintain Concession Site specific:

- (1) Public liability insurance, including bodily injury/property damage, auto liability, Concession Site liability, products and completed operations liability, bailee legal liability, liquor liability and contractual liability, providing limits of not less than \$3,000,000 combined single limit for injuries or damage received or sustained by any person(s), or property, as a result of any one occurrence or incident. The insurance policy must include coverage for environmental cleanup and pesticide/herbicide coverage.
- (2) The CONCESSIONAIRE is required to carry Worker's Compensation for statutory limits.
- (3) Casualty insurance in an amount sufficient to rebuild the improvements in case of catastrophic loss. The COUNTY will be the sole "loss payee" pursuant to such policies and, as such will be entitled to receive and subject to Paragraph 21.B, shall be obligated to apply insurance proceeds to repair or reconstruct damaged improvements. Such insurance proceeds shall not be paid to or deemed part of the COUNTY's general fund. Proceeds deposited with the COUNTY will be disbursed pursuant to customary construction lending practices in the Phoenix, Arizona area, as such repair and restoration is made and subject to such procedures as the COUNTY may require monitoring the application of such proceeds. In the event a lender to the CONCESSIONAIRE has notified the COUNTY that it holds a security interest in this Agreement, such lender shall have the right to approve the disbursement procedure for the proceeds, such approval not to be unreasonably withheld or delayed. Reconstruction will be done in consultation with the CONCESSIONAIRE and any such lender.

(4) ADDITIONAL REQUIREMENTS:

- a) The COUNTY and RECLAMATION shall be named as "additional insureds" under all policies of insurance. Copies of all insurance policies shall be made available to the COUNTY upon request. Copies of the Certificate of Insurance (COI) shall be furnished annually to the COUNTY. The COUNTY shall be given (30) days advance written notice of cancellation of policy, non-renewal, or change in coverage or limits.
 - b) Failure of the CONCESSIONAIRE to provide and maintain the required insurance coverage listed above during the course of this Agreement shall be considered a default by the CONCESSIONAIRE and subject the CONCESSIONAIRE to applicable remedies pursuant to Paragraphs 26 and 27 of this Agreement.
 - c) Upon justification to the CONCESSIONAIRE, the COUNTY reserves the right to revise the minimum required limits during the term of this Agreement.
- (5) The CONCESSIONAIRE assumes all risk of loss of the property. Loss to the property may result from, but is not limited to, theft, vandalism, fire and any fire-fighting activities (including prescribed burns), land slides, rising waters, winds, falling limbs or trees, and acts of God. If any authorized improvements are destroyed or substantially damaged, COUNTY shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, all or portions of this Agreement may be terminated.
- (6) If, prior to commencement of or during the term of this Agreement, any property, real or personal, under the control of the CONCESSIONAIRE or any buildings or improvements or such fixtures or equipment on, below, above, or appurtenant to the Concession Site at the commencement of the term or thereafter erected, installed or placed thereon shall be destroyed or damaged in whole or in part by fire or any other cause, except condemnation, the CONCESSIONAIRE shall give immediate notice thereof to the COUNTY. The CONCESSIONAIRE shall immediately secure the area to prevent injury, vandalism and further damage to persons, improvements, and contents thereof, and direct its insurer to make any payment of loss to the COUNTY for disbursement pursuant to Paragraph 21b (3) above.
- (7) If the destroyed or damaged buildings, improvements, fixtures or equipment are capable of restoration, this Agreement shall continue in full force and effect, except that the payment to the COUNTY by the CONCESSIONAIRE may, to the extent not covered by insurance, be abated and/or other relief afforded to the extent that the CONCESSIONAIRE can demonstrate, and that the COUNTY may corroborate, that the damage and/or restoration interferes with the CONCESSIONAIRE's operations. Any such claim shall be denied if such destruction is found by the COUNTY to have been caused by the fault

or neglect of the CONCESSIONAIRE. The CONCESSIONAIRE agrees to cooperate in determination of the abatement and/or other relief to be provided by furnishing all information requested relative to its operations, and permitting examination and audit of all accounting records kept in connection with the conduct thereof.

- (8) The CONCESSIONAIRE shall, as soon after damage as reasonably possible, apply for all required permits of whatever nature to restore damaged improvements, and complete restorations within a date mutually agreeable to the PARTIES. Should such damage or destruction occur within thirty-six (36) months of this Agreement's scheduled termination date, the CONCESSIONAIRE and the COUNTY may mutually agree to the extent of the restoration, if any.

22. General Conditions

The CONCESSIONAIRE agrees to comply with all applicable federal, state, county, and city statutes, laws, ordinances, rules, regulations, and instructions including Maricopa County Parks Rules and Regulations, which relate to the construction, reconstruction, management, operation and maintenance of the COMPLEX, and to keep fully informed of and in compliance with any changes or revisions thereto. The CONCESSIONAIRE shall obtain all licenses and permits and pay all taxes, assessments, fees and other expenses of any nature, associated with the construction of facilities as well as management, operation and maintenance of the COMPLEX. The CONCESSIONAIRE shall specifically comply with the following:

A. Public Access

The CONCESSIONAIRE may restrict public access within the Concession Site for security and/or health and safety reasons, upon prior written approval by COUNTY. The CONCESSIONAIRE shall have no other control over public access to or use of the Reservoir and surrounding COUNTY/Federal lands. The CONCESSIONAIRE may assess a charge should a member of the public specifically ask the CONCESSIONAIRE to launch or retrieve their boat for them. The CONCESSIONAIRE may charge for use of the boat ramp at the Concession Site.

The COMPLEX shall be open to the public and otherwise enhance public recreational uses at the LPRP. No person shall be denied use of the COMPLEX facilities because of race, sex, age, handicap, disability, color, religion or national origin.

However, the CONCESSIONAIRE is responsible for ensuring that the all patrons experience the quiet enjoyment of the COMPLEX and the CONCESSIONAIRE has an obligation to protect its customers and employees from any person(s) acting in a disruptive manner. Therefore, the CONCESSIONAIRE has the

responsibility to remove any person(s) acting in a disruptive manner or displaying inappropriate behavior.

B. Non-Exclusive Use

The use and occupancy authorized by this Agreement is not exclusive. COUNTY reserves the right for itself or to allow others to use the Concession Site in any way that is not inconsistent with the CONCESSIONAIRE's rights and privileges under this Agreement, after consultation with all PARTIES involved. Except for any restrictions that the CONCESSIONAIRE and COUNTY agree are necessary to protect the installation and operation of authorized structures and developments, the lands and waters covered by this Agreement shall remain open to the public for all lawful purposes. To facilitate public use of this area, all existing roads shall remain open to the public, except for roads that may be closed by joint agreement of the CONCESSIONAIRE and COUNTY.

C. Compliance

The CONCESSIONAIRE shall comply with all applicable federal, state, county and local laws, orders, rules and regulations, and COUNTY policies and directives and standards, including Park Rules and Regulations, in effect now or as may be modified or amended in the future.

D. Accident Reporting

The CONCESSIONAIRE shall immediately report to COUNTY any event which results in the death or significant injury requiring medical transport or attention to CONCESSIONAIRE's employee(s) or member(s) of the general public.

E. Amendment

This Agreement may be amended by mutual written consent of the PARTIES hereto, or by unilateral action of COUNTY when necessary to conform to Reservoir-specific operations or public laws, rules, regulations or policies. The length of term of this Agreement may not be extended beyond its fifteen (15) year renewal option.

F. Safety Program

The CONCESSIONAIRE shall develop and implement a safety program to be submitted by start of each new contract year for COUNTY review and concurrence. The program should include a self-inspection of all equipment, facilities and work processes by qualified concession personnel to verify compliance with established Federal, State, COUNTY, and local safety and occupational health regulations.

G. Pest Control and Salvage

The CONCESSIONAIRE shall be responsible for managing vermin and other pests, including weeds, on all lands and facilities within the Concession Site. Prior to initial operations, the CONCESSIONAIRE shall develop and submit for COUNTY approval, a pest management plan detailing safe and environmentally sensitive control and/or eradication of potential pests at the Concession Site. The CONCESSIONAIRE is responsible for complying with all training (Federal, State, COUNTY, and local), operational requirements, and licensing requirements pertinent to and required for the application of pesticides in Arizona.

Plants and animals that are native to Arizona or the immediate area may not be removed or harmed except with the prior written approval of COUNTY. The CONCESSIONAIRE shall be required to salvage and replant all plants within the approved area of development in accordance with accepted practices and standards of the Arizona commercial horticulture industry. More specifically, as part of the plan approval process, a plant salvaging plan shall be submitted to the COUNTY for prior approval.

H. Signs

Signs or other advertising posted on COUNTY and/or RECLAMATION lands shall be subject to COUNTY and any applicable administrative agency as to location, design, size, color and content for approval prior to construction or use. Signs shall be maintained to standards determined by the COUNTY. All such signs shall comply with all applicable statutes, laws, ordinances, rules and regulations.

I. Legal Effect of the Agreement

This Agreement is terminable only in accordance with the express and specific provisions hereof. It does not create or convey any leasehold or other interest in real property, and may not be used as collateral for a loan unless prior written COUNTY approval is granted. In such cases, COUNTY shall review and approve, in advance, any documents related to such an action.

J. Advertising

Advertisements, signs, circulars, brochures, letterheads, and other media or materials shall not misrepresent in any way the accommodations or services provided or the status of this Agreement or Concession Site. The fact that the Concession Site is located on COUNTY and/or RECLAMATION land shall be made readily apparent in all the CONCESSIONAIRE's brochures and printed advertising regarding use of the Concession Site.

K. Notices, Current Addresses and Points of Contact

All notices required or remitted under this Agreement shall be in writing and given by United States Post Office certified mail, return receipt requested, to each PARTY's following address, or to such other address as wither PARTY may notify the other in accordance with the provisions of this Paragraph 22.K. The mailing of any such notice properly addressed, stamped and certified, shall be considered served or given when received by the addressee.

The CONCESSIONAIRE and COUNTY shall keep each other informed of current mailing addresses, including those necessary for payment of fees.

COUNTY's mailing address and point of contact is as follows:

Administrator
Maricopa County Parks and Recreation Department
234 N. Central Ave., Suite 6400
Phoenix, AZ 85004
(602) 506-2930

CONCESSIONAIRE's mailing address and point of contact is as follows:

Michael Pretasky, Sr., Lake Pleasant Marina Partners, LLC
c/o Mark Ellerbrock
215 North Point Drive
Winthrop Harbor, IL 60096

L. Equal Opportunity Requirements

The CONCESSIONAIRE shall not discriminate against any employee or applicant for employment because of race, age, handicap, disability, color, religion, sex or national origin. The CONCESSIONAIRE shall comply with Title VI and Title VII of the Federal Civil Rights Act; the Federal Rehabilitation Act; the Age Discrimination in Employment Act; the Americans with Disabilities Act of 1990, A.R.S. § 41-1461 et. seq., A.R.S. § 41-1492 et. seq., 29 U.S.C. § 721 (Section 504), and Arizona Executive Order 75-5 which mandates that all persons shall have equal access to employment opportunities.

M. Immigration Reform and Control Act of 1986 (I.R.C.A.)

The CONCESSIONAIRE understands and acknowledges the applicability of the I.R.C.A. The CONCESSIONAIRE agrees to comply with the I.R.C.A. in performance of this Agreement and, upon request, permit the COUNTY inspection of personnel records to verify such compliance.

N. Taxes

The CONCESSIONAIRE shall pay taxes of whatever character which may be levied or charged upon the rights of the CONCESSIONAIRE to use of the

Concession Site as defined in Paragraph 1 of this Agreement, or upon the CONCESSIONAIRE's improvements, fixtures, equipment or other property or upon the CONCESSIONAIRE's operations under this Agreement. As set forth in Paragraph 22 of this Agreement, no leasehold or other real a property interest is being created or conveyed upon which tax consequences may exist.

O. Annual Event

The CONCESSIONAIRE agrees to hold and provide administrative support for an annual event sponsored by the COUNTY for the benefit of the COUNTY Parks and Recreation Department. All net proceeds generated from this event (if any) shall be used within the Park.

A date for the annual event will be mutually agreed upon by the CONCESSIONAIRE and the COUNTY and will normally be outside the peak season of May 1 to August 31. The CONCESSIONAIRE agrees to provide the services and support for this annual event at favorable rates in order to enhance the return to the COUNTY Parks System.

23. Covenant Against Contingent Fees

The CONCESSIONAIRE warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the CONCESSIONAIRE for the purpose of securing business. For breach or violation of this warranty, COUNTY shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

24. Historic And Archeological Values

The CONCESSIONAIRE shall be particularly alert in any construction operations to take all reasonable and necessary precautions to protect and preserve any and all antiquities or other objects of archaeological, paleontological, cultural, historic, or scientific interests on COUNTY and/or RECLAMATION lands within the Concession Site. Objects under construction include but are not limited to, historic or prehistoric ruins, human remains, funerary objects and other artifacts. Should such sites or objects, or evidence of sites or objects, be discovered the CONCESSIONAIRE shall immediately suspend any and all work involving the area in question, make a reasonable effort to protect such discovery, and advise COUNTY of the existence of such discovery. The CONCESSIONAIRE shall immediately provide a verbal notification to COUNTY of the discovery of human remains on COUNTY and/or RECLAMATION lands. The CONCESSIONAIRE shall forward a written report of their findings to COUNTY within 48 hours by certified mail. The CONCESSIONAIRE shall cease activity, stabilize, and protect such discoveries until authorized to proceed by COUNTY. Protective and mitigative measures specified by COUNTY shall be the responsibility of the CONCESSIONAIRE. COUNTY shall promptly have the area inspected to

determine its historical significance and the appropriate actions to follow (salvage, test excavations, etc., and resumption of construction). Cost of any salvage work will be borne the COUNTY and/or RECLAMATION. All objects salvaged from public lands are the property of the United States Government and will be turned over the Reclamation and/or COUNTY for disposition.

25. Organization - Employment Disclaimer

This Agreement is not intended to constitute, create, give to or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind between RECLAMATION, the COUNTY, and the CONCESSIONAIRE, and the rights and obligations of the PARTIES shall be only those expressly set forth in this Agreement.

The PARTIES agree that no persons supplied by the CONCESSIONAIRE in the performance of obligations under the Agreement are considered to be the COUNTY or RECLAMATION employees, and that no rights of the COUNTY or RECLAMATION civil service, retirement or personnel rules accrue to such persons. The CONCESSIONAIRE shall have total responsibility for all salaries, wages, insurance of any type, bonuses, retirement withholdings, worker's compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons, and shall save and hold the COUNTY and RECLAMATION harmless with respect thereto.

26. Environmental Compliance

The COUNTY will, to the extent permitted by law, indemnify and hold the CONCESSIONAIRE harmless for any environmental liability created prior to the date the CONCESSIONAIRE enters the Concession Site for purposes of design and construction of the COMPLEX.

A. Current Status

The CONCESSIONAIRE shall prepare a National Environmental Policy Act (NEPA) report for use by the United States Bureau of Reclamation (RECLAMATION) to include a public involvement program. The CONCESSIONAIRE shall not start construction of the facilities until this report is completed.

If a contaminant/hazardous substance is found at the Concession Site which was present on the Concession Site prior to commencement of the CONCESSIONAIRE's activities on the Concession Site or if a contaminant/hazardous substance is present adjacent to the Concession Site prior to commencement of the CONCESSIONAIRE's activities on the Concession Site and migrates to the Concession Site, the identified past operator or other identified party responsible for the contamination will bear all cost for the assessment and subsequent remediation. If the CONCESSIONAIRE's activities result in adverse environmental impacts, the

CONCESSIONAIRE will be fully accountable for any resulting site assessment and cleanup cost required to restore the property. The COUNTY will not seek compensation or restitution from the CONCESSIONAIRE as a "Potentially Responsible Party" for any release of a contaminant/hazardous substance on the Concession Site prior to the commencement of the CONCESSIONAIRE's activities on the Concession Site unless actions of the CONCESSIONAIRE contribute to the release or migration of the contaminant/hazardous substance..

B. Regulated Use

The CONCESSIONAIRE shall provide to the COUNTY, in writing, a complete list identifying all hazardous material or petroleum products initially to be brought on the Concession Site as presented in Exhibit "P" of the RFP documents. Thereafter, the CONCESSIONAIRE shall provide written notice to the COUNTY only when other hazardous material and/or petroleum products which were not initially identified are brought on the Concession Site.

Additionally, the CONCESSIONAIRE shall prepare and implement any necessary remediation action plan in accordance with all applicable federal, state, the COUNTY, and city statutes, laws, ordinances, rules and regulations. The CONCESSIONAIRE shall keep Material Safety Data Sheets documents on site for those materials and products.

The CONCESSIONAIRE shall report to the COUNTY within twenty-four (24) hours of knowledge of any event or occurrence at the COMPLEX which may or does result in pollution or contamination adversely affecting lands, water or facilities owned or managed by the COUNTY.

C. Regulated Disposal

The CONCESSIONAIRE shall protect, defend, indemnify and hold harmless the COUNTY and RECLAMATION from and against all liabilities, costs, charges and expenses, including civil or criminal penalties, attorney's fees and court costs arising out of, or related to, an activity involving or use of a regulated substance under any applicable federal, state, or local environmental laws, regulations, ordinances or amendments thereto because of: (a) any such substance that came to be located on the COMPLEX and/or temporary facilities due to the CONCESSIONAIRE's use or occupancy of the Concession Site after the signing of this Agreement; or (b) any release, threatened release or escape of any substance in, on, under or from said COMPLEX that is caused, in whole or in part, by any conduct, action or negligence of the CONCESSIONAIRE.

For the purposes of this Agreement, the term "regulated substances" shall include substances defined as "regulated substances," "hazardous waste," "hazardous substances," "hazardous materials," "toxic substances" or "pesticides" in the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, the Comprehensive Environmental Response, Compensation and Liability Act, as amended in 1986

to include Superfund Amendments and Reauthorization Act, the Hazardous Materials Transportation Act, the Toxic Substance Control Act, the Federal Insecticide, Fungicide and Rodenticide Act, the relevant local and state environmental laws, and the regulations, rules and ordinances adopted and publications promulgated pursuant to the local, state and federal laws. This indemnification shall include, without limitation, claims or damages arising out of any violations of applicable environmental laws, regulations, ordinances, rules or subdivisions thereof. This environmental indemnity shall survive the expiration or termination of this Agreement and/or any transfer of all or any portion of the COMPLEX operation and shall be governed by the laws of the State of Arizona.

The CONCESSIONAIRE accepts sole responsibility and liability for all wastes produced by its operation, activities and occupation of the Concession Site and shall comply with all applicable laws concerning such wastes, including federal, state, and local regulatory requirements. Any such waste must be disposed of in compliance with the above.

The CONCESSIONAIRE further hereby represents and warrants to the COUNTY that the CONCESSIONAIRE, its agents, employees, and contractors, shall be solely responsible for and assume any responsibility for generating, storing, releasing, placing or allowing to remain on the property any hazardous substances, hazardous wastes, or toxic substances (hereinafter collectively referred to as "Hazardous Substances"), as those terms are defined and regulated under C.E.R.C.L.A., 42 U.S.C. 9601 *et seq.*, R.C.R.A., 42 U.S.C. 6901 *et seq.*, or T.S.C.A., 15 U.S.C. 2601 *et seq.* The CONCESSIONAIRE agrees to comply with all environmental laws and regulations and to take such other actions as may be reasonably required to protect against environmental liabilities. Any such "hazardous substances" must be disposed of pursuant to and in compliance with all required laws and regulations concerning the use and disposal of such substances.

Management and proper disposal of all hazardous material is the responsibility of the CONCESSIONAIRE. The CONCESSIONAIRE must keep appropriate and required documentation relating to the management and disposal of all hazardous material.

27. Default By Concessionaire - Remedies

A. Default to the County

Except where otherwise provided in this Agreement, if the CONCESSIONAIRE is found or believed by the COUNTY to have materially breached any portion of this Agreement, written notice shall be given to the CONCESSIONAIRE, by certified mail, return receipt requested, that it may be in default. The CONCESSIONAIRE shall have not more than sixty (60) days after the receipt of written notice to cure the violation or such further time as the COUNTY may authorize in writing. If the CONCESSIONAIRE has not cured the violation by the end of the sixty (60) day period, or such further time as the COUNTY authorizes

in writing, the COUNTY shall cause notice to be given to the CONCESSIONAIRE, by certified mail, return receipt requested, that it is in default which shall be cause for termination of this Agreement. In such case, the CONCESSIONAIRE shall, within thirty (30) days, vacate the Concession Site described in Paragraph 5 or Exhibit A of this Agreement and remove any and all of its personal property therefrom.

If the COUNTY discovers any situation on the Concession Site which it believes constitutes an emergency or immediate danger to public health, safety or welfare, whether or not that situation itself constitutes a violation of this Agreement, the COUNTY will, if possible, notify the CONCESSIONAIRE of the situation requiring such immediate attention. If the CONCESSIONAIRE cannot be contacted or does not or cannot remedy the situation in a timely manner satisfactory to the COUNTY, the COUNTY may take action to remedy the emergency with or without giving advance notice to the CONCESSIONAIRE. However, notice to the CONCESSIONAIRE shall be given as soon as practicable. If the COUNTY executes its option to remedy the situation, the reasonable costs incurred by the COUNTY for correcting the emergency or dangerous situation shall be paid by the CONCESSIONAIRE upon receipt of a statement of costs from the COUNTY. Failure by the CONCESSIONAIRE to either remedy the situation or make such payment shall constitute a material violation and breach of this Agreement and the COUNTY may issue a notice of default.

In situations which do not constitute an emergency or immediate danger to public health, safety or welfare, notice shall be given to the CONCESSIONAIRE and the CONCESSIONAIRE shall have the responsibility to correct the situation at its own expense and in a timely manner satisfactory to the COUNTY. If the situation is not corrected in a timely manner, the COUNTY may make the necessary corrections which shall be paid by the CONCESSIONAIRE upon receipt of a statement of costs from the COUNTY. Failure by the CONCESSIONAIRE to either remedy the situation or make such payment shall constitute a material violation and breach of this Agreement and the COUNTY may issue a notice of default.

If the situation or violation resulted from the CONCESSIONAIRE's failure to carry out its management responsibilities under this Agreement, or because of changes in federal, state or county health or safety laws or regulations enacted or promulgated after the effective date of this Agreement, the CONCESSIONAIRE shall assume all costs of curing the violation. If such violations are not cured it will be deemed to constitute a material violation and breach of this Agreement and the COUNTY may issue a notice of default.

Notwithstanding the above, if a lender to the CONCESSIONAIRE has notified the COUNTY that it holds a security interest in this Agreement, then the COUNTY will do the following:

- (1) Send such lender copies of all notices of default sent to the CONCESSIONAIRE.
- (2) If the CONCESSIONAIRE fails to cure any default within the cure period set forth above, notify the lender that the CONCESSIONAIRE is in default of this Agreement.
- (3) Thereafter, permit lender the opportunity to cure the default within thirty (30) days of notice to lender if the default is capable of being cured by payment of money and within sixty (60) days of notice to lender if the default requires affirmative action other than or in addition to the payment of money and if such default cannot be cured within sixty (60) days or without possession of the COMPLEX or Concession Site, such additional time as agreed upon by the PARTIES and the lender to be reasonable, under the circumstances, to complete the cure providing lender diligently pursues the cure.
- (4) Permit transfer of CONCESSIONAIRE's rights, duties and obligations under the same terms as the CONCESSIONAIRE provided that at all times after such transfer, lender retains a manager or operator as follows:
 - a) The manager or operator is an experienced dry stack storage, watercraft rental, and boating supply store manager or operator and is recognized in the dry stack storage, watercraft rental, and boating supply store business community as such and,
 - b) Such manager or operator agrees to manage and is capable of operating the COMPLEX in a manner and at a level suitable to the COUNTY and consistent with the standards of the dry stack storage, watercraft rental, and boating supply store business community.

If such conditions are met, the approval of the COUNTY will not be unreasonably withheld or delayed.

B. Default to Lender

If the CONCESSIONAIRE is placed in default by lender and said lender has notified the COUNTY, in writing, of its security interest in this Agreement, and upon notice to the COUNTY of such default, the COUNTY will permit lender to assume the rights, duties and obligations of this Agreement under the same terms as the CONCESSIONAIRE provided that after foreclosure or other exercise of lenders' remedies, lender shall install a manager or operator that meets the following conditions:

- (1) The manager or operator is an experienced dry stack storage, watercraft rental, and boating supply store manager or operator and is recognized in the dry stack storage, watercraft rental, and boating supply store business community as such and,
- (2) Such manager or operator agrees to manage and is capable to operate the COMPLEX in a manner and at a level suitable to the COUNTY and consistent with the standards of the dry stack storage, watercraft rental, and boating supply store business community.

If such conditions are met, the approval of the COUNTY will not be unreasonably withheld or delayed.

28. Default And Termination

Upon default by the CONCESSIONAIRE, and subject to the notice, cure periods and other applicable provisions of Paragraph 27 of this Agreement, the COUNTY may terminate this Agreement and take possession of the Concession Site and all improvements, subject to the following provisions:

A. Acquisition of Improvements

The COUNTY, may at its option, acquire all of the CONCESSIONAIRE'S right, title and interest in and to all improvements within the Concession Site if the damages incurred by the COUNTY by reason of the CONCESSIONAIRE'S default ("Default Damages") as more particularly defined below) equal or exceed the then fair market value of all the improvements, If the Default Damages are less than the fair market value of all the improvements, the COUNTY shall acquire such improvements to the extent that the COUNTY pays to CONCESSIONAIRE an amount, if any equal to (i) 90% of the then fair market value of the acquired improvements, less (ii) the Default Charges.

B. Determination of Fair Market Value

For the purposes of this Paragraph 28, the then fair market value of the improvements shall be determined as set forth in Paragraph 17.D.

C. Default Damages

For purposes of this Paragraph 28, the Default Damages shall equal the following amounts:

- (1) All unpaid fees and other payments due from CONCESSIONAIRE at the time of termination;
- (2) The worth at the time of termination of the amount by which the unpaid fees and payments which would have been due after the time of termination exceed such fees and other payments that CONCESSIONAIRE proves could have been reasonably avoided by the COUNTY or another concessionaire operating the COMPLEX; and
- (3) Any other amount necessary to compensate COUNTY for all damages proximately caused by CONCESSIONAIRE'S default which in the ordinary course would likely result therefrom (e.g., costs and expenses for alterations and repairs to maintain the COMPLEX in a condition reasonably necessary for its operation by the COUNTY or another concessionaire.

The "worth at the time of termination" of the amount specified in Paragraph 28.C (2) above means such amount discounted at the discount rate of the Federal Reserve Bank of San Francisco at the time of the termination of this Agreement.

D. Removal of Improvements Not Acquired

The CONCESSIONAIRE shall have sixty (60) days after the termination of this Agreement to remove any improvements not acquired by the COUNTY pursuant to the foregoing provisions of this Paragraph 28.

29. Dispute of Resolution

Any dispute arising out of or relating to this Agreement shall be submitted to mediation prior to filing an action in the courts. Notice of a dispute must be in writing and provide a summary of the issue that is the subject of the dispute. The PARTIES shall confer within thirty (30) days of a PARTY'S receipt of a notice of dispute and decide within ten (10) days after conferring, on a mutually acceptable mediator. If a mutually acceptable mediator cannot be agreed upon within thirty (30) days after conferring, the PARTIES agree to use a mediator appointed by the American Arbitration Association. Mediation will be non-binding. The cost of any mediation shall be shared equally by the PARTIES.

30. Waiver

The waiver by either PARTY of any breach of any one or more of the covenants, conditions or provisions of this Use Management Agreement shall not be construed to be a waiver of any subsequent or other breach of said covenants, conditions or provisions of this Use Management Agreement. Any failure on the part of either PARTY to require or exact full and complete compliance with any of the covenants, conditions or provisions of the Use Management Agreement shall not be construed to, in any manner, change the terms hereof or preclude such party from enforcing the full provisions of this Use Management Agreement. Furthermore, the terms of this Use Management Agreement shall not be changed or altered in any manner whatsoever other than by written agreement of the COUNTY and the CONCESSIONAIRE.

31. Agent, Employees, Contractors, Subcontractors

The CONCESSIONAIRE shall ensure full compliance with all applicable terms and conditions of this Agreement by its agents, employees and contractors (including subcontractors of any tier), and their respective employees. Failure or refusal of the CONCESSIONAIRE or its agents, employees, contractors, subcontractors or their employees to comply with these terms and conditions shall be deemed a breach of this Agreement.

32. Paragraph Headings

The paragraph headings used in this Agreement are for the purpose of convenience and reference only, and they shall not be construed in any manner or to any extent to limit or to extend the effect or meaning of the terms and provisions contained thereunder.

33. Severability/Validity

Any provision of the Use Management Agreement which is determined to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision hereof, and remaining provisions shall remain in full force and effect.

34. Incorporation Of Proposal Into The Contract

The contents of the Request for Proposal and the selected Proposer's response are incorporated entirely into this Agreement by reference. However, this Agreement may include modifications of terms of the Request for Proposal and proposer's response thereto as negotiated and agreed by mutual consent of the PARTIES as acknowledged by the signing of this Agreement. Where this Agreement differs from the Request For Proposal or the proposer's response to the Request For Proposal, this Agreement controls.

35. Federal Concessions Standards

The CONCESSIONAIRE will comply with RECLAMATION Manual LND 04-02 Directives and Standards for Concessions Management by Non-Federal Partners, as shown as Exhibit "B" of this Use Management Agreement.

If this Agreement is amended or terminated because of default or for other reasons and a subsequent concession contract is issued by the non-Federal partner, the subsequent concession contract must be in compliance with these directives and standards as listed above.

36. Suspension & Debarment; Executive Orders 12549 And 12689

The March 2004 OMB Circular A-133 Compliance Supplement pertaining to the U.S.C. Code has been changed. Before November 26, 2003 contractors receiving individual awards for \$100,000 or more and all sub recipients had to certify that the organization and its principals were not suspended or debarred. As of November 26, 2003, when the COUNTY enters into a covered transaction with an entity (contracts for goods and services expected to equal or exceed \$25,000 and sub awards to sub recipients), the COUNTY must receive verification that the entity is not suspended or debarred. Non-Federal entities (the COUNTY) are prohibited from contracting with or making sub awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred.

Effective November 26, 2003, when a non-federal entity (the COUNTY) enters into a covered transaction with an entity at a lower tier, the non-federal entity (the COUNTY) must receive verification that the entity is not suspended or debarred or otherwise excluded. As such, each prospective concessionaire must submit a certification (e.g. certified letter) within sixty (60) days of award, that it is not currently under such suspension or debarment. Requirements for suspension and debarment are contained in the Federal codification of the government wide non-procurement debarment and suspension common rule, which implements Executive Orders 12549 and 12689, Debarment and Suspension.

37. Retraction of Property

Any property assigned under this Agreement which is left undeveloped beyond the time frame listed in the approved site development plan and in the opinion of the COUNTY, has clearly been left abandoned by the CONCESSIONAIRE, shall be subject to retraction by the COUNTY for other potential recreational uses.

38. Holding Over

Should the CONCESSIONAIRE, with or without the consent of the COUNTY, continue in possession of the licensed facilities after the expiration of the agreed term, without having entered into a subsequent Agreement of like nature and content to the within Agreement, such possession shall be deemed to be a holding of the licensed facilities on a month-to-month basis, with all of the terms and conditions of this Agreement to continue in full force and effect.

39. Subordination Of Agreement

It shall be specifically and expressly understood that the terms and conditions of this Agreement are subject and subordinate to the LPRP Management Agreement, Contract No. #9-07-30-L0298, between RECLAMATION and the COUNTY.

40. Conflict of Interest

The PARTIES acknowledge that this Agreement is subject to cancellation pursuant to the provisions of A.R.S. § 38-511, (A) which reads that "The state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract."

41. Non Liability of Lender

The COUNTY agrees that a lender shall not be liable or responsible for (a) any acts or omissions of the CONCESSIONAIRE prior to the date the lender acquires all of the CONCESSIONAIRE's rights and interests under the Agreement pursuant to a foreclosure of a security interest or transfer in lieu thereof (although nothing herein shall be deemed to relieve a lender from any obligation to cure any defaults which continue after any foreclosure and which are reasonably capable of being cured by the lender, or (b) any obligation of the CONCESSIONAIRE to indemnify the COUNTY or to hold the COUNTY harmless for any actions, omissions, events, or occurrences which arises or occur prior to the date a lender acquires the CONCESSIONAIRE's rights or interests

under the Agreement pursuant to a foreclosure of a security interest or transfer in lieu thereof.

42. Reasonable Approval

Wherever in this Agreement the consent or approval of either PARTY is required, such approval or consent shall not be unreasonably withheld, conditioned or delayed.

43. No Third Party Beneficiaries

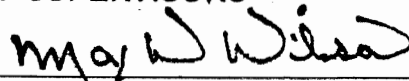
Except as may be otherwise expressly and specifically set forth in this Agreement, no person or entity shall be deemed a Third Party Beneficiary of any of the provisions of this Agreement.

44. Additional Parcel

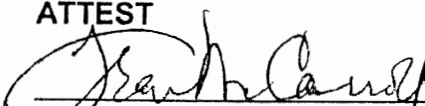
The COUNTY shall use its best efforts to secure such agreements and other instruments as may be necessary to develop an additional Use Management Agreement for the certain parcel of land of approximately 30 acres located near the north side of State Highway 74, west of 87th Avenue, commonly referred to as Lake Pleasant Harbor Road, as more particularly described on Exhibit D hereto (the "Additional Parcel"), as provided in the Request for Proposals as an Alternate Service in response to the RFP for the Development, Operation and Maintenance of a Dry Stack Storage, Watercraft Rental and Boating Supply Store Complex. This Proposal is accepted by the COUNTY and the CONCESSIONAIRE will be provided right of first refusal for development of that Additional Parcel upon incorporation into the Lake Pleasant Management Agreement between COUNTY and the Bureau of Reclamation.

DATED this 7th day of December, 2005.

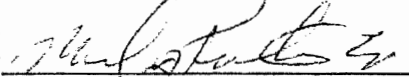
**MARICOPA THE COUNTY BOARD
OF SUPERVISORS**


Chairman


ATTEST

 DEC 07 2005
Clerk of the Board Date

LAKE PLEASANT MARINA PARTNERS, LLP

 11-12-05
By: Date

Approved as to form:

 11-15-05
By: Date

Deputy County Attorney

 11/17/05
By: Date

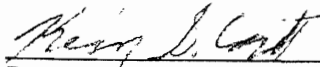
 11/27/05
By: Date

EXHIBIT B

Reclamation Manual LND 04-02 Directives and Standards for Concessions Management by Non-Federal Partners

(See attachment on next page)

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Reclamation Manual / Directives and Standards LND 04-02

Categories/Laws and Regulations/Reclamation Home Page

Subject: Concessions Management by Non-Federal Partners

Purpose: Establishes minimum approval standards for all new, modified, or renewed non-Federal concession contracts.

Authority: Reclamation Act of 1902, as amended and supplemented; the Reclamation Project Act of 1939; and the Federal Water Project Recreation Act of 1965, as amended.

Contact: Land, Recreation, and Cultural Resources Office, D-5300

1. **Non-Federal Partners.** Reclamation may transfer to non-Federal partners the responsibility to develop and manage public recreation areas and concession services. Transferred areas are managed by a partner under Federal authorities, the partner's authorities, specific contracts, and agreements with Reclamation. Well-planned and -managed concessions on the Federal estate are of mutual interest to Reclamation and its partners. Reclamation is responsible for continuous management oversight of managing partners and their concessions operations.

2. **Compliance With Directives and Standards.** New concession contracts issued by managing partners must comply with these directives and standards. Existing concession contracts issued by managing partners must, at the first opportunity, be brought into compliance with these directives and standards. If a concession contract is amended or terminated because of contract default or for other reasons and a subsequent concession contract is issued by the non-Federal partner, the subsequent concession contract must be in compliance with these directives and standards.

3. **Definitions.**

A. **Concession.** A concession is a non-Federal commercial business that supports appropriate public recreation uses and provides facilities, goods,

Exhibit B

or services for which revenues are collected. A concession involves the use of the Federal estate and usually involves the development of real property improvements.

B. Exclusive Use. Exclusive use is any use that excludes other appropriate public recreation use or users for extended periods of time. Exclusive use includes, but is not limited to, boat docks, cabins, trailers, manufactured or mobile homes, structures, or amenities that are determined by Reclamation to be exclusive use.

C. Federal Estate. The Federal land and water areas under the primary jurisdiction of the Department of the Interior, Bureau of Reclamation.

D. Fixed Assets. Fixed assets are any structures, fixtures, or capital improvements permanently attached to the Federal estate.

E. Improvement. An addition to real property that increases its value or utility or that enhances its appearance.

F. Management Agreement. A management agreement is a binding contract between Reclamation and a partner to provide public recreation opportunities and concession services on the Federal estate.

G. Non-Federal Partner. A non-Federal partner is a non-Federal public entity that manages recreation and other resources through a contractual agreement with Reclamation.

H. Total Benefits to the Government. Total benefits include:

(1) **Direct Returns.** These are fees generated by authorized concession contracts and paid directly to the managing entity or to the United States Treasury.

(2) **Direct Benefits.** These are fees paid into a contractually designated special account for resource and capital improvements that directly benefit the public in the area of operations where the fees are collected.

(3) **Indirect Benefits.** These are services performed by the concessionaire that benefit the public or improvements made to the Federal estate by the concessionaire.

4. **Managing Partner Agreements.**

A. Third-Party Concession Agreements. Third-party concession agreements are agreements between the non-Federal managing partner and another entity to provide concession related services and facilities.

(1) **Agreement Standards.** Any concession contract, including a contract renewal or modification, issued by the non-Federal managing partner must meet the requirements of these Concessions Management Directives and Standards.

(2) **Contract Approval.** Before issuing or renewing a non-Federal concession contract, the contract must be approved by Reclamation.

(3) **Stand In Stead Conditions.** All concession contracts must state that Reclamation will not stand in stead for the managing partner should the management agreement expire or be terminated. At Reclamation's discretion, Reclamation may issue a new concession contract that is in compliance with Reclamation Manual (RM), *Concessions Management by Reclamation*, LND 04-01. Reclamation will not issue a new contract until all exclusive use has been removed.

B. Review and Evaluation. All management agreements will require Reclamation to conduct annual concession operation reviews and evaluations. Reclamation may also conduct unplanned reviews, as necessary. If a review identifies operational or administrative deficiencies in the operation of a concession, a timetable must be established by the area office to correct these deficiencies.

C. Exclusive Use. New, renewed, or modified management agreements and concession contracts will include clauses that prohibit new exclusive use and require that existing exclusive use be phased out. When existing

concession contracts issued by the partner are modified or renewed, Reclamation and the partner must establish a timetable in the concession contract that phases out existing exclusive use before the expiration of the contract. This timetable must be established before the concession contract is resubmitted to Reclamation for approval. The concessionaire and a person hired to guard the concessionaires investment may reside on the Federal estate, with the written approval of Reclamation.

D. Disposition of Fees. Unless State or local laws direct how concession fees paid to the partner will be used, the following will apply: (1) fees will be returned to the area to provide for operation, maintenance, and replacement of recreation facilities and new facility development; (2) any excess fees (profit) will be returned to Reclamation and disposed of according to RM, Crediting of Incidental Revenues, PEC 03-01.

E. Statistical Data. Each year, the managing partner will be required to provide Reclamation with the information specified in Reclamation's Recreation Use Data Report. Other information may be required, as necessary. This information will provide an accurate inventory of facilities. The report will also contain other data about the managing partner's recreation and concession operations on the Federal estate.

5. Concessions Planning. Concession development will adhere to the concessions principles listed in RM, Concessions Management (LND P02), will be based on appropriate plans developed by the partner or Reclamation, and will be approved by the Regional Director or delegate. Reclamation can provide direction and assistance in the process, as necessary, to accomplish effective commercial services planning.

6. Concessions Contracting. The following items will be addressed in all new and renewed concessions contracts issued by non-Federal partners.

A. Sale and Transfer. The sale and transfer of existing concessions must be approved according to the management agreement and reported to Reclamation in a timely manner.

B. Contract Language. The partner will develop and use contract language that complies with all applicable Federal laws, rules, regulations, and Executive Orders. Reclamation can provide examples of standard contract structure and language.

C. Length of Term. The term for a concession may not exceed the term of the management agreement between Reclamation and the partner. In general, terms should be as short as possible and based on the new investment required as determined by a financial feasibility evaluation.

D. Subconcessions. All subconcessions must meet the terms and conditions of the prime concession contract. The partner must approve all subconcessions and notify Reclamation in advance of any authorization that needs Reclamation approval. Generally, subconcessions are discouraged in order to keep operations under single management.

E. Concessions Building and Improvement Program. All designs and construction must comply with applicable Federal, State, and local environmental and historic preservation laws and regulations and building code requirements. In areas where no State or local construction standards exist, Reclamation may provide appropriate standards. Where required and before construction, building permits must be obtained from local authorities by the concessionaire. All facilities will be harmonious in form, line, color, and texture with the surrounding landscape.

F. Operation and Maintenance Plan. Concessionaires will prepare an annual operation and maintenance plan, which must be approved by the partner. The concession contract must clearly state what the plan will contain. Reclamation can provide examples of such plans for the partner and the concessionaire.

G. Reimbursement for Fixed Assets.

(1) A right to reimbursement may exist when a concessionaire places Reclamation-approved fixed assets on the Federal estate. Title to fixed assets must be established in the concession contract. Reimbursement of a concessionaire for fixed assets is the responsibility of the partner. The method for determining the amount of reimbursement and the method of payment will be specifically addressed in the concession contract between the partner and the concessionaire.

(2) In the event the partner's agreement with Reclamation expires or is terminated without a commitment by both

Reclamation and the partner to enter into another agreement, all the concessionaires' fixed assets and personal property must be removed from the Federal estate unless Reclamation decides to issue a new concessions contract and decides to retain the fixed assets. [See paragraph 4A(3).] The partner will be responsible for ensuring that the concession area is returned in a condition satisfactory to Reclamation.

(3) It must be clearly stated that no financial obligation or risk will reside in the Federal Government for reimbursement for fixed assets or personal property as a result of the partner awarding a concession contract. All new concession contracts issued by the partner will address rights for reimbursement to the concessionaire for fixed assets. Interests in a concessionaire's fixed assets may not extend beyond the term of the management agreement. In addition, the concession contract must provide appropriate language regarding interests in fixed assets and methods of reimbursement, if any, to the concessionaire by the partner.

H. Area of Operation. Each concession contract will authorize and define only the physical area necessary to conduct the business activities allowed by the contract. Concession boundaries must be surveyed by the partner and easily recognizable by the visiting public.

I. Additional Facilities or Services. Any proposal for expansion of facilities or services must be reviewed by Reclamation and approved by the partner before the expansion takes place.

J. Exclusive Use. The contract must state that no new facility, service, or site determined by Reclamation to be exclusive use will be allowed. New, renewed, or modified concession contracts issued by the partner will include clauses that establish a timetable for phasing out existing exclusive use before the contract expires.

K. Reclamation Rights. All concession contracts must be subject to the rights of Reclamation and its agents to use the subject lands and waters for project purposes.

L. Termination of Concession Contract. Concession contracts will acknowledge the right of Reclamation to terminate, for cause, any

concession contract authorized by a non-Federal partner.

M. Total Benefits. The partner will establish and recover fair benefits, including direct return and direct and indirect benefits, for the uses, rights, and privileges granted by a concession contract. For disposition of fees, see paragraph 4D.

N. Rates and Merchandise. Rates charged by concessionaires for services, food, lodging, and merchandise will be based on charges for comparable facilities, services, and merchandise provided by the private sector in similar situations. The partner must approve the rates requested by concessionaires.

O. Concessions Safety Program. Concessionaires are responsible for providing and ensuring a safe and healthful environment for both the visiting public and employees by developing, implementing, and administering health, safety, and educational programs to ensure that concession areas are managed in compliance with Federal, State, and local laws, rules, and regulations.

P. Environmental Compliance. Concession contracts will address all activities with potential environmental impacts resulting from the release of hazardous materials to the environment including, but not limited to, the following: pesticides, herbicides, sewage effluents, petroleum products, and liquid waste (gray water). Concessionaires are required to follow all applicable Federal, State, and local laws, rules, and regulations related to hazardous substance use, storage, and disposal. Application for and acquisition of all required certifications and permits are the responsibility of the concessionaire.

Q. Food Sanitation. Concessionaires' food services will comply with Federal, State, and local food handling and sanitation regulations.

R. Advertising and Signs. The Reclamation logo or name, along with the non-Federal partner logo or name, will be displayed at all concession entrances used by the public. Outdoor signs or other forms of advertising on the Federal estate must be approved by Reclamation before they are displayed.

S. Sale of Personal Property. The sale of personal property other than the approved concessions inventory is prohibited on the Federal estate. No

party will be permitted to sell personal property, including vehicles, manufactured or mobile homes, house trailers, travel trailers, boats, or personal water craft, on the Federal estate.

T. Utility Services Provided by Reclamation. The fee charged for utility services provided by Reclamation will be based on the recovery of full operating and replacement costs for utility capital investments and comparable utility rates. Utility services include, but are not limited to, electricity, power, water, waste disposal, gas, and communication systems.

U. Insurance Program. Concessionaires must have and maintain an appropriate insurance policy that will indemnify the United States and meet applicable State requirements. All liability policies will provide that the insurance company will have no right of subrogation against the United States and must provide that the United States is named as an additional insured. The partner may establish similar requirements itself, but it must provide Reclamation with a copy of the insurance certificate that identifies the above conditions.

V. System of Recordkeeping. Financial reports and records necessary for management and oversight of concessions must be maintained and available to the partner and to Reclamation upon request. At a minimum, each concessionaire will complete Reclamation's Annual Financial Report form(s).

7. Concessions Administration.

A. Annual Review and Evaluation. All concession agreements issued by the non-Federal partner will require Reclamation and the non-Federal partner to conduct annual concession reviews and evaluations. The review should identify problems, solutions, and a timetable for resolving the problems in a written report. The non-Federal partner must ensure that any operational or administrative deficiencies noted by the review are corrected in accordance with the established timetable.

B. Nonprofit Organizations. In certain circumstances, it may be suitable for cooperative associations or nonprofit organizations to sell goods or provide visitor services to meet the goals and objectives of both Reclamation and the partner. These associations and organizations must be approved by the partner if the cooperating association operates within a

concession or elsewhere on the Federal estate. The cooperating association will be responsible for maintaining its accounting system, and the system cannot be combined with a concessionaire's annual financial report. Nonprofit organizations will also be given very clear instructions identifying the type of business they are authorized to conduct and the types of goods and services they may provide. All organizations must provide written proof of their nonprofit status to Reclamation and the partner.

C. Employment of Reclamation Personnel or Family Members⁽¹⁾

Reclamation employees or family members may not be owners, partners, board members, corporate officers, general managers, or employees of any business providing commercial services on the Federal estate, nor may they have any financial interest in such a company. Ownership of stock shares traded in a recognized open market is not considered a financial interest under these directives and standards. Reclamation employees are further prohibited from using their public office for private or family gain. A Reclamation employee involved in preparing specifications, awarding a contract, or administering a concession may not be involved in that activity if the employee or a family member is involved in any phase or operation of that concession. Any Reclamation employee or family member responsible for any phase of a concession contract will be excused from duties related to the concession contract if the employee or a family member is involved in competing for the contract or if the Reclamation employee may benefit financially from the awarding of the contract.

¹ Guidance on this issue should be obtained from an ethics counselor in the servicing Reclamation Personnel/Human Resources Office.

(159) 4/29/02
Supersedes (74) 4/3/98

Exhibit C

***Special Notes:**

Exhibit C.1
Percentage Fee and Minimum Payment Schedule

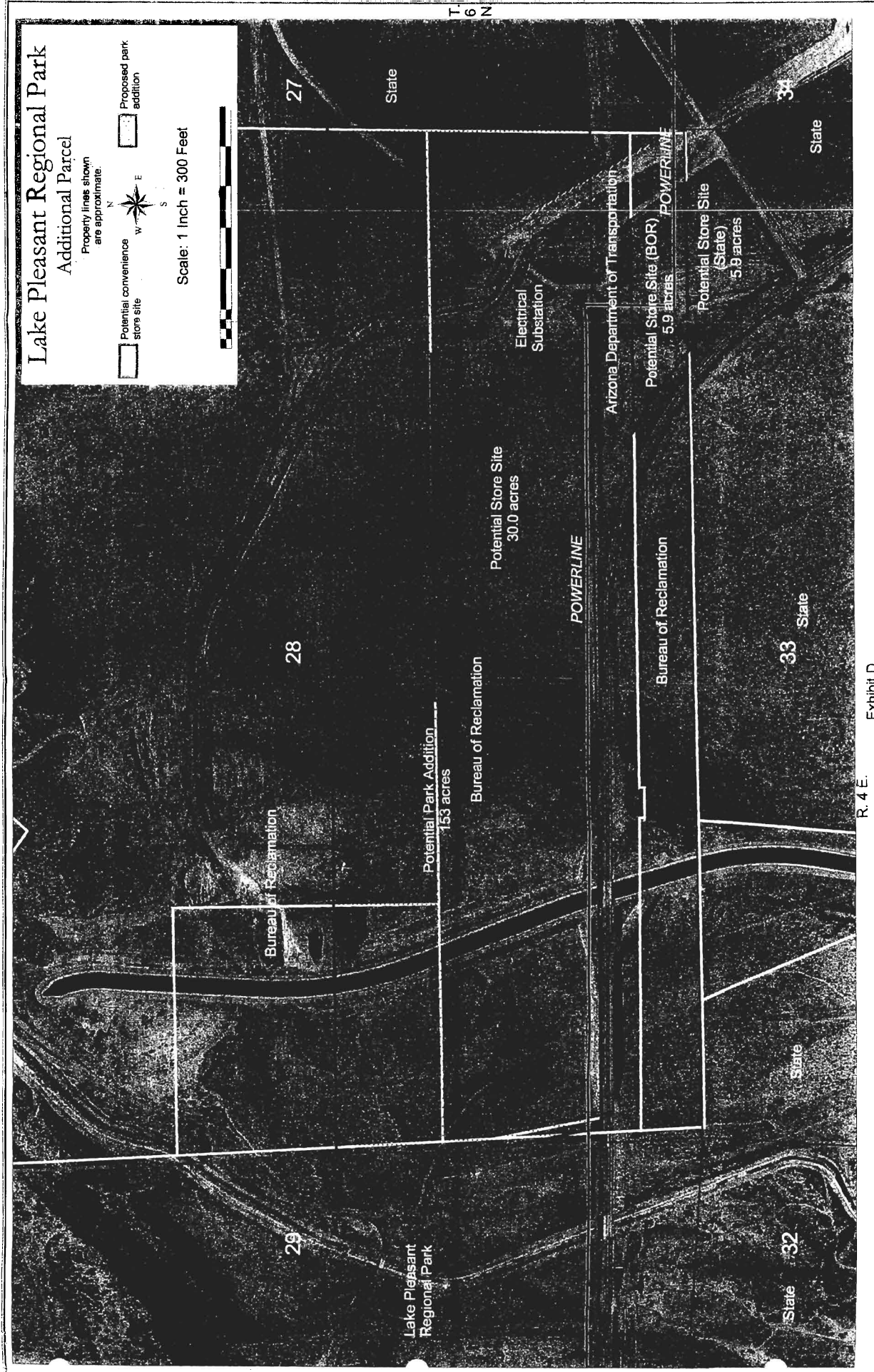
Contract Year	Fiscal Year	Annual Revenue	0 to 3.5 Mil	3.5 to 4.5 Mil	4.5 to 6 Mil	6 to 8 Mil	8 Mil or Yr 21 > 6 Mil	Total Percentage Fee	Minimum Fees Due	Date Min is Due	Add'l Due Is Due	Date Add'l Is Due	Total Fee
Initial Term	June 28, 2040												
35	2040							-	144,240	01/02/40		03/31/41	
34	2039							-	144,240	01/02/39		03/31/40	
33	2038							-	144,240	01/02/38		03/31/39	
32	2037							-	144,240	01/02/37		03/31/38	
31	2036							-	144,240	01/02/36		03/31/37	
30	2035							-	144,240	01/02/35		03/31/36	
29	2034							-	144,240	01/02/34		03/31/35	
28	2033							-	144,240	01/02/33		03/31/34	
27	2032							-	144,240	01/02/32		03/31/33	
26	2031							-	144,240	01/02/31		03/31/32	
25	2030							-	144,240	01/02/30		03/31/31	
24	2029							-	144,240	01/02/29		03/31/30	
23	2028							-	144,240	01/02/28		03/31/29	
22	2027							-	144,240	01/02/27		03/31/28	
21	2026							-	128,064	01/02/26		03/31/27	
20	2025							-	128,064	01/02/25		03/31/26	
19	2024							-	128,064	01/02/24		03/31/25	
18	2023							-	128,064	01/02/23		03/31/24	
17	2022							-	128,064	01/02/22		03/31/23	
16	2021							-	128,064	01/02/21		03/31/22	
15	2020							-	128,064	01/02/20		03/31/21	
14	2019							-	128,064	01/02/19		03/31/20	
13	2018							-	128,064	01/02/18		03/31/19	
12	2017							-	128,064	01/02/17		03/31/18	
11	2016							-	95,000	01/02/16		03/31/17	
10	2015							-	90,000	01/02/15		03/31/16	
9	2014							-	85,000	01/02/14		03/31/15	
8	2013							-	80,000	01/02/13		03/31/14	
7	2012							-	75,000	01/02/12		03/31/13	
6	2011							-	65,000	01/02/11		03/31/12	
5	2010							-	60,000	01/02/10		03/31/11	
4	2009							-	55,000	01/02/09		03/31/10	
3	2008							-	50,000	01/02/08		03/31/09	
2	2007							-	22,500	01/02/07		03/31/08	
1	2006							-	3,977,500	01/02/06			
*Special Notes: 1. Use Management Signed 12/7/05 2. Contract Year runs 1/1 to 12/31 of each year, except the first and last. 3. Last contract year ends concurrent with BOR agreement (6 mos) 4. 544 Wet Slips not permitted until after 12/1/06													
Total Fee is calculated as a percentage of gross revenue as follows: The total fee on revenue from \$0 to \$3,499,999 will be calculated at 2% The total fee on revenue from \$3,500,000 to \$4,499,999 will be calculated at 2.5% The total fee on revenue from \$4,500,000 to \$5,999,999 will be calculated at 3% The total fee on revenue from \$6,000,000 to \$7,999,999 will be calculated at 4% The total fee on revenue greater than \$8,000,000 will be calculated at 5% Beginning with the 21st year of the contract, revenue greater than \$6,000,000 will be calculated at 5%													

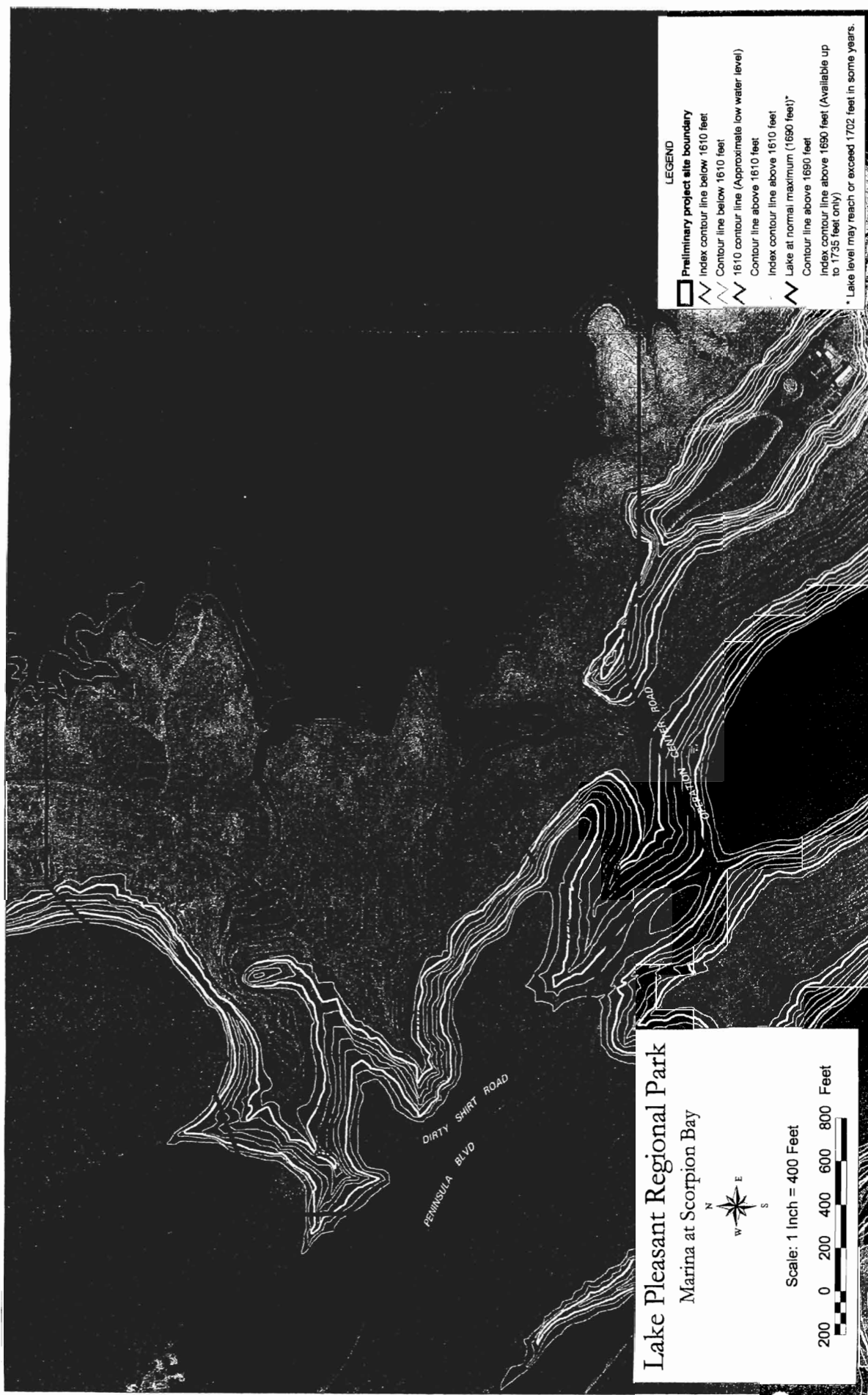
Lake Pleasant Regional Park Additional Parcel

Property lines shown
are approximate.



Scale: 1 Inch = 300 Feet





Lake Pleasant Regional Park
Marina at Scorpion Bay

Scale: 1 inch = 400 Feet

200 0 200 400 600 800 Feet

LEGEND

- Preliminary project site boundary
- Index contour line below 1610 feet
- Contour line below 1610 feet
- 1610 contour line (Approximate low water level)
- Contour line above 1610 feet
- Index contour line above 1610 feet
- Lake at normal maximum (1690 feet)*
- Contour line above 1690 feet
- Index contour line above 1690 feet (Available up to 1735 feet only)

* Lake level may reach or exceed 1702 feet in some years.

APPENDIX B

M&I Marshall & Ilsley Bank

3500 State Road 16/La Crosse, WI 54601/Tel 608 783-1511

www.mibank.com

June 15, 2006

Maricopa County Environmental Services Dept.
Water & Waste Management Division
Water & Waste Treatment Plant Plans & Inspections
Attn: Mr. Ken James
1001 N. Central Ave.
Phoenix, AZ 85004

RE: Scorpion Bay Marina & Yacht Club

Dear Mr. James:

This letter is prepared in response to various requests from agencies of the Arizona State Government, inquiring about the financial ability of Lake Pleasant Marina Partners, LLC ("Lake Pleasant") to construct a marina and wastewater treatment plant on the referenced marina site.

M&I Marshall and Ilsley Bank ("M&I") has committed to provide financing to construct a new marina on Lake Pleasant, including a wastewater treatment plant. M&I will provide 80% of the required construction funds, with total construction build-out cost estimated at approximately \$12,000,000 for Phases 1 and 2. The individual partners of Lake Pleasant will provide the remaining 20% financing for the project.

M&I has had a long standing banking relationship with a 50% partner of Lake Pleasant. The account relationship includes business and personal banking relationships and has always been handled as agreed and this individual's personal integrity is held in high regard at this bank. The lending relationship (personal and business) with the 50% partner exceeds \$15 million in aggregate outstanding commitments.

Please do not hesitate to give me a call if you have further questions.

Sincerely,



Larry W. Bodin
Vice President
Commercial Banking
608-783-9125

LWB/bhs

CC: Ms. Julie Hoffman – Maricopa Association of Governments
CC: Ms. Vinita Bhatt – Arizona Department of Environmental Quality
CC: Ms. Edwina Vogan – Arizona Department of Environmental Quality

APPENDIX C

APP Pre-Application Meeting

December 19, 2005

1:00 p.m. - ADEQ

ATTENDEES

Marcy Mullins, ADEQ
Sujana Attaluri, ADEQ
Bill Kopp, ADEQ
Edwina Vogan, ADEQ 208
Julie Finke, ADEQ 208
Peter Chan, CSA Engineering
John Tyldesley, CSA Engineering
Gary Henningsen, Terracon
Mike Vaile, Skipper Marine Development

MINUTES

1. Bill will serve as Project Hydrologist. Sujana will be the project engineer. Marcy will serve as Project Officer.
2. CSA presented the treatment plant concept utilizing extended aeration as the treatment option.
3. It was clarified that the Bureau of Reclamation owns the land on which the WWTP is to be constructed. The Maricopa Country Parks and Recreation Department holds the land through a lease with the Bureau and will in turn lease the land to Lake Pleasant Marina Partners.
6. It was resolved that historical data on flows to other marina waste systems would be used to determine appropriate peaking factors for this design.
7. The WWTP site will be located approximately 200 ft above Lake Pleasant's high water mark, and above the spillway elevation, outside of the 100 year flood plain.
8. Effluent produced will be of A+ quality. Effluent reuse will be through subsurface drip irrigation. A type 2 reuse permit will not be required unless other reuse applications are desired.
9. A point of compliance will need to be defined for water quality tests. This will be described in the application.
10. If a point of compliance well is required for groundwater testing, it may operate during the permit compliance phase of the plant's operation.
11. A discharge impact area and pollution management area will need to be defined in the hydrogeological report.

12. Administrative completeness will not be issued until ADEQ approves the MAG208.
13. Water quality data for Lake Pleasant will be obtained to better gauge impact of treatment plant. Susan Fich is the contact person for the ADEQ lake program.
14. If it is determined that effluent will run into the lake, a NPDES will be required.
15. There is no intention to obtain an AZPDES permit for this facility. On advice from ADEQ, there will be no surface discharge of effluent. 100% usage will be obtained for the irrigation system by deliberately choosing native, high water consumption flora.
16. The 208 amendment will be addressed through Julie Hoffman.
17. A 208 consistency form will be completed electronically and sent to Julie Finke.
18. The financial requirements for the APP application can be found in the Arizona Revised Statutes.
19. The APP application must include construction cost, O&M costs, closure costs and post closure cost.
20. A full drainage report will not be required for this APP application. Documentation of water depth, gradient, and any nearby wells will be sufficient.

APPENDIX D

Reference 1.

**Maricopa Water District
Monthly PHM Sewer Readings**

	1999	2000	2001	2002	2003	2004	2005	2006
January	109,163	5,053	35,640	41,535	46,606	68,878	55,280	52,320
February	83,396	23,151	40,527	42,287	138,762	90,051	49,257	45,330
March	124,191	11,647	65,253	65,184	85,230	139,488	11,985	81,780
April	95,687	6,527	85,550	78,214	88,950	119,055	52,904	96,350
May	135,916	7,856	89,928	102,110	106,568	158,281	123,710	103,940
June	111,610	6,387	80,660	105,136	88,671	121,276	107,452	89,100
July	161,990	10,622	93,280	121,710	114,711	91,583	113,968	55,015
August	80,099	7,436	67,442	105,987	68,648	69,752	90,010	69,731
September	105,945	6,030	65,667	60,625	62,079	87,502	60,101	73,044
October	89,740	5,441	57,283	59,127	63,884	88,474	68,000	53,700
November	82,529	2,641	44,480	55,367	52,020	37,128	62,560	
December	68,997	3,594	44,605	37,495	44,327	27,093	45,010	
Total	1,249,263	96,385	770,315	874,777	960,456	1,098,561	840,237	720,310
Month	104,105	8,032	64,193	72,898	80,038	91,547	70,020	60,026
Day	3,470	268	2,140	2,430	2,668	3,052	2,334	2,001
							Average Month	Average Day

Average daily flow over 8 year period = 2,295 GPD.

Use July 1999 for the Maximum month.

Assume all flow in four weekends each having three days.

161,900 GAL ÷ 4 weekends ÷ 3 days per weekend = 13,500 GPD.

NOTE: The flows in 1999 were unusually high compared to the flows in the following years.

ATTACHMENT "A"

MWD- Pleasant Harbor Wastewater Treatment Plant Flow

Data for Marina & RV Park - 2006

	Influent (GPD)		BOD (mg/l)		TSS (mg/l)		
2006	AVG	MAX DAY	AVG	MAX DAY	AVG	MAX DAY	
Jan	14,000	33,000	500	690	347	488	
Feb	15,000	23,000	281	400	194	286	
Mar	17,000	31,000	418	564	124	178	
Apr	15,000	25,000	306	339	161	188	
May	18,000	36,000	187	294	97	124	
Jun	15,000	24,000	296	429	200	214	
Jul	14,000	30,000	255	308	78	99	
Aug	12,000	21,000	369	541	433	816	
Sep	12,000	24,000	243	304	80	94	
Oct	11,000	19,000	277	297	47	58	
Nov	14,000	24,000	435	495	347	350	
Dec	10,000	17,000	666	1,160	395	744	
TOTAL	167,000	307,000	4,233	5,821	2,503	3,639	
AVG	13,917	25,583	353	485	209	303	

ATTACHMENT "B"

Reference 2.

to service the project without compromising the existing municipal works. **Water usage requirements should be estimated on the basis of 25 gallons per slip per day for recreational boats and 65 gallons per slip per day for commercial charter boat operations.** These figures represent an estimate of peak day demands and may be seasonally adjusted for overall water supply volume demands. Local studies of water usage should be substituted for the guidelines if the studies provide adequate documentation.

Water supply lines should be consistent with local code requirements and should be suitable for potable water by the National Sanitation Foundation or an appropriately recognized body. Main water supply lines should be fitted with a backflow preventer in accordance with standard commercial practice. Individual marina hose bibbs should also be fitted with screw-on backflow preventers at each hose bibb location. Shut off valves should be installed and marked to provide a rapid means of isolating the supply line in the event of pipe or fitting failure.

A separate water supply line may be required for fire fighting. This line should be a separate rated pipe suitable for the intended application and dedicated for fire fighting purposes. When provided, 1.5 inch diameter standpipe outlets should be provided at about 200 foot intervals along the supply line. Standpipes should be galvanized steel or bronze, well braced and located such that the center of the discharge valve is 18 inches above the deck surface. The area around the fire hose connection valve should be sufficiently clear to allow the fire hose connection valve to be opened without the need for the use of tools. The discharge valve pipe should be protected by an end cap. The standpipes should be painted red. If ancillary pumps and piping are used for fire fighting, they should be prominently marked as such and labeled as nonpotable water. Fire hose and play should not be provided at the standpipes. The hose and attachments will be provided by the responding firefighting units or by properly trained personnel.

Sanitary Facilities and Wastewater Systems

Adequate number of sanitary facilities should be provided on the upland by marina tenants, visitors and marina personnel. The facilities should be constructed and maintained in a clean and sanitary fashion. **Sanitary facilities should be provided within 500 feet from the shore end of any pier.** Provision should be made in several locations to meet this provision. Provision of accessible toilets should include at least one toilet location con-

venient to the marina. All sanitary facilities should be well marked and readily identifiable.

Sewage pump out facilities for boats should be provided at a minimum of one pump out per 100 recreational slips or fraction thereof. The slip count may consider only the size of boats normally fitted with sewage holding tank capability. Runabouts and day sailors not having provision for fixed sewage holding tanks need not be included in the boat count for pump out capacity.

Table 16-1 presents the suggested number of sanitary facilities appropriate for various size marinas. **Sewage generation, for marinas having only toilets and lavatories, should be calculated at the rate of 20 gallons per slip per day.**

This relationship holds for marinas, up to 100 slip capacity, also having showers. Above a capacity of 100 slips, marinas with toilets, lavatories, and showers should have sewage generation calculated at 32 gallons per slip per day. Slip usage is based on two persons per slip. Marinas having trailer boat facilities or rack storage should have sewage generation calculated at the rate of 10 gallons per rack or trailer parking space per day. Charter boat operations should be sized on the basis of 10 gallons per person per day for the licensed capacity of the vessel plus crew. If motel accommodations, restaurants or shopping malls are incorporated into the marina, appropriate code values of sewage generation should be added to the marina contribution to obtain a total sewage flow estimate. **If water saving devices are incorporated into the sanitary facility**

Table 16-1. Recommended number of sanitary facilities for marinas of varying size.

No. of Seasonal Wet Slips	Toilets		Urinals		Lavatories		Showers		Pumpout Stations
	F	M	F	M	F	M	F	M	
0 - 50	1	1	1	1	1	1	0	0	1
51 - 100	2	1	1	1	1	1	1	1	1
101 - 150	3	2	2	2	2	2	2	2	2
151 - 200	4	2	2	2	3	2	2	2	2
201 - 250	5	3	3	3	4	3	3	3	3
251 - 300	6	3	3	3	4	4	3	3	3

* For marinas exceeding 300 slips, increase the unit requirements by one unit per 100 additional slips.

construction, sewage flow estimates may be reduced by the ratio of water savings versus standard fixtures as stated by the manufacturer's test literature. If boat pump out sewage is not added to the primary sewage disposal system the total quantity of sewage flow from the marina operation may be reduced by 10 percent. Handling of boat pump out sewage must be defined.

Boat pump out facilities should have the capacity to remove sewage from on board holding tanks. The pump outs may be portable or fixed, and if fixed, located to provide easy access to users. The pump outs should be available during normal marina operation hours. Minimum pumpout equipment should include a pump capacity of a minimum of 10 gallons per minute or of a size to adequately handle the volume of flow associated with the size of the facility. The pump should be capable of passing 1.5 inch diameter solids or be capable of macerating the solids prior to ingestion by the pump assembly. The pump should be of an anticlogging variety. The pump should be able to pump against the maximum head developed by elevation change and line losses. The suction connection to the boat should be a tight fit and adjustable by adapters to service boat discharge connections between 1.5 inch and 4 inch diameter. The suction end should be fitted with a one way check valve. The suction hose should be flexible, nonkinking, noncollapsible, and of heavy duty material of the shortest length suitable for the intended service. The pump should be valued to prevent sewage discharge during any pump repair or service operation. Discharge piping should be rigid or noncollapsing flexible, with locking connections. The line should be watertight and appropriately fastened or secured to the dock or pier. The discharge line connection to upland holding tanks or municipal sewerage systems should be made in accordance with the best practice to ensure a tight and safe discharge that will not compromise public health. Washdown water should be supplied at each boat pump out location. Potable water hose bibbs should be fitted with a back flow preventer and the hose bibb and any associated hoses clearly marked as not for use as a drinking water source.

If boat pump out sewage is to be held in holding tanks for off site disposal, the holding tanks should be sized in relationship to the volume of sewage generated and the frequency of removal of material from the holding tank. Generally, a 1,500 gallon holding tank can serve up to 100 slips. The tank should be of watertight construction and if buried in the ground, provision should be made to prevent buoyant uplift from ground water or tidal influence. The tank material should be suitably protected from corrosion or be constructed of corrosion resistant materials. The tank should be capable of being

completely emptied and should be appropriately vented. Sullage should be incorporated into the tank to allow spill free discharge removal from the tank. Incorporated into the tank design or appropriate elsewhere should be provision for emptying the contents of portable tanks. This device should be designed for portable tank disposal, with a suitable opening for discharge of contents and a tight unit should be equipped with a washdown system to allow clean portable unit. The washdown system should be clearly marked for drinking water.

Solid Waste

The proper disposal of solid waste should be encouraged by providing trash receptacles in convenient areas in a reasonable number. Generally, a trash receptacle should be placed at the shore end of a minimum, in any area where people tend to gather such as a ship store, haul launching ramp, etc. Container type dumpsters should also be provided for the frequent emptying of smaller trash receptacles. The marina posted to advise users that overboard discharge of solid waste in the waterways is prohibited. **Solid waste generation is estimated at per slip per day.** The project should demonstrate that solid waste will not compromise existing solid waste disposal areas in the community where.

An example of solid waste dumpster requirements was observed at a berth marina where solid waste is collected in five, 2 cubic yard which are emptied twice a week during the summer boating season. Three dumpsters are used and emptied once a week. These numbers are helpful in establishing initial solid waste loading, but may later be suited to the particular needs of the facility.

Waste Oil

The marina should provide a suitable waste oil container for disposal of engine oil, etc. The container should be designed to allow easy placement of waste oil into the tank and the fill pipe should be fitted with a tight container should have a tray or other structure to contain any spill resulting from the oil transfer operation. **In general, a 250-275 gallon oil tank will provide a suitable waste oil capacity for up to 100 slips.** During seasonal decommissioning and commissioning the tank may be emptied. The waste oil should be disposed of in an approved

Reference 3.

Type of Establishment (unit basis)	Sewage Flow (gallons per unit per day)
*Airport (passenger)	4
*Apartments, multiple family (resident) 1 bedroom assume 2 residents, 2 bedrooms assume 3 residents, etc.	100
*Camp: Campground, overnight with flush toilets (camper)	25
Campground, overnight with flush toilets and shower (camper)	50
Construction (bed)	50
Day with no meals served (camper)	15
Luxury (camper)	100-150
Resorts, day and night, with limited plumbing (camper)	50
Tourist with central bath and toilet facilities (person)	35
*Clubs: Country (resident member)	100
Country (nonresident member)	25
*Cottages with seasonal occupancy (resident)	100
*Dwellings: Boarding of rooming houses (resident)	100
Additional kitchen requirements for nonresidents boarders	10
*Dwellings: Residential (resident)	100
*Factory (person)	25
*Highway Rest Area (contract State Hwy. Dept.)	
*Hospital (bed)	250-400
*Hotel (room)	125
*Institutions other than hospitals (person)	75-125
*Laundries, self service (machine)	400
*Mobile Home: Family (per resident)	100
Retirement (resident)	75
*Motel (room)	125
*Office (person)	25
*Picnic: With bathhouses, showers & flush toilets (picnicker)	20
With toilet facilities only (picnicker)	10
*Public Restrooms (toilet)	200
*Restaurant (seat) per meal served	30 7
*Schools: Boarding (pupil)	100
Day with cafeteria, gymnasiums & showers (pupil)	25
Day with cafeteria, but no gymnasiums or showers (pupil)	20
Day without cafeteria, gymnasiums or showers (pupil)	15
*Service Station (bay)	1000
*Shopping Center (square foot)	1
*Swimming pool (swimmer)	10
*Theaters: Drive-In (car space)	5
Movie (seat)	5
*Trailer Park: (also see mobile home)	
Travel with no sewer connection (space)	125
Travel with sewer connection (space)	175

Organic Loading, Base All Organic Loadings on 200 mg/l BOD₅ and 250 mg/l SS.

Figure VI-2

Average Daily Sewage Flow BULLETIN 11

TABLE 1
AVERAGE DAILY SEWAGE FLOW

TYPE OF ESTABLISHMENT (unit basis)	BULLETIN 12	SEWAGE FLOW (gallons per unit per day)
Airport (passenger)		4
Apartments, multiple family (resident)		100
1 bedroom assume 2 residents, 2 bedrooms assume 3 residents, etc.		
Bar (patron)		25
Barber shop (50 per chair over 8)		100
Beauty parlor (100 per chair over 5)		1000
Camp:		
Campground, overnight with flush toilets (camper space)		25
Campground, overnight with flush toilets and shower (camper space)		50
Construction (bed)		50
Day with no meal served (camper space)		15
Luxury (camper)		100-150
Resorts, Day and night, with limited plumbing (camper space)		50
Tourists with central bath and toilet facilities (person)		35
Churches:		
Without kitchens (person)		7
With kitchens (person)		10
Clubs:		
Country (resident member)		100
Country (nonresident member)		25
Cottages with seasonal occupancy (resident)		100
Dental office (chair)		500
Dog Kennel (per animal)		15
Dwellings:		
Boarding of rooming houses (resident)		100
Additional kitchen requirements for nonresidents (boarder)		10
Dwellings:		
Residential (resident) (2 residents per bedroom)		100
Factory:		
no showers (person)		25
with showers (person)		35
Highway Rest Area (contact State Department of Transportation)		
Hospital (bed)		250-400
Hotel		
without kitchen (room)		125
with kitchen (room)		150
Institutions other than hospitals (person)		75-125
Laundries, self service (machine)		400
Mobile Home Community System for family (space)		250
(for adults only community (space)		150
Motel:		
without kitchen (room)		125
with kitchen (room)		150
Office (person)		25
Picnic:		
With bathhouses, showers & flush toilets (picnicker)		20
With toilet facilities only (picnicker)		10
Public Restrooms (toilet)		200
Recreation Vehicle Park: without water or sewer hook-up (vehicle)		75
with water and sewer hook-up (vehicle)		100
Restaurant (seat)		30
per meal served		7
Schools:		
Boarding (pupil)		100
Day with cafeteria, gymnasiums & showers (pupil)		25
Day with cafeteria, but no gymnasiums or showers (pupil)		20
Day without cafeteria, gymnasiums or showers (pupil)		15
Service Station (bay)		1000
Shopping Center, (sq. ft. of store area) (no food/laundry)		0.1
Stores		500
Swimming Pool (swimmer)		10
Theaters:		
Drive-in (car space)		5
Movie (seat) (vehicle)		5

For structures and facilities not specifically mentioned in the above table, flow rates available from other standard books and literature are acceptable.

12. 2005 (05-3).

Airport	Passenger (average daily number)	4
	Employee	15
Auto Wash	Facility	Per manufacturer, if consistent with this Chapter
Bar/Lounge	Seat	30
Barber Shop	Chair	35
Beauty Parlor	Chair	100
Bowling Alley (snack bar only)	Lane	75
Camp		
Day camp, no cooking facilities	Camping unit	30
Campground, overnight, flush toilets	Camping unit	75
Campground, overnight, flush toilets and shower	Camping unit	150
Campground, luxury	Person	100-150
Camp, youth, summer, or seasonal	Person	50
Church		
Without kitchen	Person (maximum attendance)	5
With kitchen	Person (maximum attendance)	7
Country Club	Resident Member	100
	Nonresident Member	10
Dance Hall	Patron	5
Dental Office	Chair	500
Dog Kennel	Animal, maximum occupancy	15
Dwelling		
For determining design flow for sewage treatment facilities under R18-9-B202(A)(9)(a) and sewage collection systems under R18-9-E301(D) and R18-9-B301(K), excluding peaking factor.	Person	80
Dwelling		
For on-site wastewater treatment facilities per R18-9-E302 through R18-9-E323:		
Apartment Building		
1 bedroom	Apartment	200
2 bedroom	Apartment	300
3 bedroom	Apartment	400
4 bedroom	Apartment	500
Seasonal or Summer Dwelling (with recorded seasonal occupancy restriction)	Resident	100
Single Family Dwellings	see R18-9-A314(D)(1)	see R18-9-A314(D)(1)
Other than Single Family Dwelling, the greater flow value based on:		
Bedroom count		
1-2 bedrooms	Bedroom	300
Each bedroom over 2	Bedroom	150
Fixture count	Fixture unit	25
Fire Station	Employee	45
Hospital		
All flows	Bed	250
Kitchen waste only	Bed	25
Laundry waste only	Bed	40

Title 18, Ch. 9

Arizona Administrative Code

Department of Environmental Quality – Water Pollution Control

Hotel/motel		
Without kitchen	Bed (2 person)	50
With kitchen	Bed (2 person)	60
Industrial facility		
Without showers	Employee	25
With showers	Employee	35
Cafeteria, add	Employee	5
Institutions		
Resident	Person	75
Nursing home	Person	125
Rest home	Person	125
Laundry		
Self service	Wash cycle	50
Commercial	Washing machine	Per manufacturer, if consistent with this Chapter
Office Building	Employee	20
Park (temporary use)		
Picnic, with showers, flush toilets	Parking space	40
Picnic, with flush toilets only	Parking space	20
Recreational vehicle, no water or sewer connections	Vehicle space	75
Recreational vehicle, with water and sewer connections	Vehicle space	100
Mobile home/Trailer	Space	250
Restaurant/Cafeteria	Employee	20
With toilet, add	Customer	7
Kitchen waste, add	Meal	6
Garbage disposal, add	Meal	1
Cocktail lounge, add	Customer	2
Kitchen waste disposal service, add	Meal	2
Restroom, public	Toilet	200
School		
Staff and office	Person	20
Elementary, add	Student	15
Middle and High, add	Student	20
with gym & showers, add	Student	5
with cafeteria, add	Student	3
Boarding, total flow	Person	100
Service Station with toilets	First bay	1000
	Each additional bay	500
Shopping Center, no food or laundry	Square foot of retail space	0.1
Store	Employee	20
Public restroom, add	Square foot of retail space	0.1
Swimming Pool, Public	Person	10
Theater		
Indoor	Seat	5
Drive-in	Car space	10

Note: Unit flow rates published in standard texts, literature sources, or relevant area or regional studies are considered by the Department, if appropriate to the project.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 235, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4544, effective November 12, 2005 (05-3).

ARTICLE 4. NITROGEN MANAGEMENT GENERAL PERMITS

R18-9-401. Definitions

In addition to the definitions established in A.R.S. §§ 49-101 and 49-201 and A.A.C. R18-9-101, the following terms apply to this Article:

1. "Application of nitrogen fertilizer" means any use of a substance containing nitrogen for the commercial production of a crop or plant. The commercial production of a

crop or plant includes commercial sod farms and nurseries.

2. "Contact stormwater" means stormwater that comes in contact with animals or animal wastes within a concentrated animal feeding operation.
3. "Crop or plant needs" means the amount of water and nitrogen required to meet the physiological demands of a crop or plant to achieve a defined yield.
4. "Crop or plant uptake" means the amount of water and nitrogen that can be physiologically absorbed by the roots